takes charge of his office, or until the person so disabled resumes charge of his office.

Chief Commissioner may alter limits of district or tahsil.

14. The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsíl, create new districts or tahsíls and abolish existing districts or tahsíls.

Power to invest Revenue-officers,—

15. The Chief Commissioner may, subject to the control of the Governor General in Council, invest any Revenue-officer with any of the following powers :—

with power conferred by Code of Civil Procedure;

for the purpose of disposing of cases under this Act, any power conferred by the Code of Civil Procedure on a Civil Court;

with power to delegate powers.

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act;

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

Power of Deputy Commissioner to distribute work.

16. Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal; or

(*b*) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

Power of superior Revenue-authorities to withdraw and transfer cases.

17. The Chief Commissioner, the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Revenue-officers to enter on land, &c.

18. All Revenue-officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power to make rules to regulate procedure.

19. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

Persons by whom appearances and applications may be made before and to Revenue-officers.

20. All appearances before, applications to, and acts to be done before, any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves; or,

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner:

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Obligation of parties to attend in person.

Legal practitioner's or agent's fees not allowed unless for special reasons.

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Appeals.

22. An appeal shall lie against every decision or order under this Act—

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner exercising the powers of a Deputy Commissioner,—to the Deputy Commissioner;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal,—to the Commissioner of the division;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division,—to the Chief Commissioner:

Provided that in no case shall a third appeal be allowed.

Limitation of appeals.

23. No appeal shall lie—

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(*c*) in the Court of the Chief Commissioner—after the expiration of ninety days from such date.

In computing such periods of limitation, and in all respects not herein specified, the provisions of the Indian Limitation Act, 1877, shall apply.

Powers of revision of Commissioner and Deputy Commissioner.

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of Chief Commissioner.

25. The Chief Commissioner may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner has given the parties interested an opportunity of being heard.

Review of orders.

26. Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm orders passed by himself or by any of his predecessors in office:

Provided as follows—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate:

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

PART III.

OF SURVEY AND SETTLEMENT.

CHAPTER III.

PRELIMINARY.

Notification of revenue-survey.

27. Whenever it appears to the Chief Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made, and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen may enter upon the lands to be surveyed, and erect survey-marks, and do all other acts necessary for making the survey.

Effect thereof.

Notification of settlement.

28. When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

(*a*) define the local area to be settled;

(*b*) specify the operations which are to be carried out in the settlement;

and may from time to time, with the like sanction, amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

Power to appoint Settlement-officers;

29. The Chief Commissioner may, from time to time, appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area; and when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer) to control such settlement; and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

and to suspend and remove them.

The Chief Commissioner may suspend or remove any officer appointed under this section.

Settlement-officer may be invested with powers of Deputy Commissioner.

30. During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may, from time to time, direct.

Certain provisions of Chapter II applied to Settlement-officers.

31. The provisions of section eleven and sections fifteen to twenty-six, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement-officer," for the expression "Deputy Commissioner," wherever those expressions occur:

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order:

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

Appointment of Settlement-Commissioner;

32. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) appoint a Settlement-Commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement; and

(*b*) delegate to the Settlement-Commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Delegation to him of Chief Commissioner's powers.

33. When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of the first five grades of Courts described in section four of the Central Provinces Courts' Act, 1865, and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, sections twelve, nineteen and twenty, for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely) :—

Power to invest Settlement-officers with Civil Court powers.

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like;

(*b*) suits by lambardárs for arrears of revenue payable through them by the proprietors whom they represent;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts;

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance;

(*h*) suits relating to land, or the rent, profits or occupation of land.

34. When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section thirty-three, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in the Central Provinces Courts' Act, 1865, sections twelve, nineteen and twenty, with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

Chief Settlement-officer to have powers of Deputy Commissioner.

35. When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section thirty-three in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts of the first four grades aforesaid, by Assistant Commissioners or Tahsíldárs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

36. When any local area is under settlement and the Settlement-officers therein have been invested with powers under section thirty-three, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or he may direct that, in respect of such suits, the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts:

Division of civil work between Settlement-officers and ordinary Courts.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

37. Nothing in section thirty-one shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section thirty-three, thirty-four or thirty-five.

Provisions of section 31 not to apply to certain suits.

38. Except as provided in sections thirty-three, thirty-four and thirty-five, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section twenty-two from such decrees or orders.

Appeal, reference and revision.

39. Every settlement notified under section twenty-eight shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Duration of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease; and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the Division directs, or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

Cases pending at close of settlement-operations.

CHAPTER IV.

OF DEMARCATION.

Unowned Lands.

40. When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

Settlement-officer to invite claims to lands appearing to have no owner.

Application of Act XXIII of 1863.

41. Every such notification shall be deemed to be an advertisement under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste lands*), section one;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over, any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said Act No. XXIII of 1863, section seven, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

Mahâls.

Power to form mahâls.

43. The Settlement-officer may declare any local area to be a mahâl.

Excluded Lands.

Settlement-officer may exclude any town or land from settlement operations.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section twenty-eight shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Boundary-marks.

Erection of new, and repair of existing, boundary-marks.

45. When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahâls, fields or other lands in their possession, or to repair boundary-marks already existing; and may fix a reasonable time for obeying his order;

and if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

Separate sum to be assessed on every mahâl.

46. On every mahâl a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect.

Progressive assessments.

47. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

Matters as to which Chief Commissioner is to instruct Settlement-officer.

48. In assessing a mahâl all land situate therein shall be taken into account except the following (that is to say):—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands;

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force;

(*c*) land excluded from assessment under section forty-four;

(*d*) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained;

(*e*) land which the Chief Commissioner, subject to the control of the Governor General in Council, may, from time to time, exempt from assessment.

What land taken into account in assessing mahâl.

Assessment to whom to be offered.

49. The assessment of every mahâl shall be offered to the entire proprietary body of such mahâl: provided that, when superior and inferior proprietary rights co-exist in the same mahâl, the Settlement-officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahâl shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahâl, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

50. When in a mahâl in which superior and inferior proprietors co-exist, the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahal is assessed and to the profits to which the superior proprietors are entitled under section forty-nine.

Power to give directions as to payment of certain profits of superior proprietors.

51. When in any such mahâl the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior

proprietors are entitled under section forty-nine, shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government Treasury.

Power to make rules for reporting assessment for sanction.

52. The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Offers of assessment to be made subject to revision and confirmation.

53. In making any offer of assessment the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council, and also to revision by the Chief Commissioner at any time before such confirmation is received.

Option to accept or refuse assessment.

54. It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

Mode of acceptance.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time, prescribe in this behalf, and deliver the same to the Settlement-officer.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

55. Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Effect of acceptance of assessment.

56. Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect: Provided as follows:—

Assessment may be rescinded by Chief Commissioner;

1st—any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;

or by Governor General in Council.

2ndly—the Governor General in Council may rescind any assessment submitted to him for confirmation;

Málguzárs may object to continuance of assessment beyond term of settlement.

3rdly—if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

Procedure when assessment is refused.

57. Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section fifty-four the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm, or take it under direct management.

Procedure when only some proprietors accept assessment.

58. If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion, and either let their lands in farm or take such lands under direct management.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it the mahál shall be dealt with under the provisions of section fifty-seven.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál, and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

59. When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist—

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section fifty-seven;

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section fifty-eight:

Provided that if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure on refusal of assessment by inferior proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section fifty, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

61. Any proprietor excluded from settlement under section fifty-seven or section fifty-nine, clause (*a*), shall be entitled to receive from the Government an

annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent., or more than ten per cent., on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy-rights in their sír-land.

62. Any proprietor excluded from settlement or sub-settlement under sections fifty-seven to sixty, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

63. The aggregate amount of any allowance under section sixty-one, and of the difference between the rent fixed under section sixty-two and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount of the assessment offered to him by the Settlement-officer.

Sub-settlement with málik-makbúzás and other like holders of land.

64. The Settlement-officer may make, on behalf of málik-makbúzás or other like holders of land, such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent., as may in his opinion be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

Revenue payable under sub-settlement to be first charge on land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Settlement-officer to apportion assessment over lands held in severalty;

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

to redistribute land according to custom.

67. When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors;

68. The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

to determine extent of sír-land;

69. The Settlement-officer shall ascertain the situation and determine the extent of all the land held as sír in each mahál.

to decide disputes among shareholders regarding management of mahál;

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to determine through what lambardárs revenue shall be paid;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor or málik-makbúzá shall be paid.

to ascertain status and rents of tenants.

72. The Settlement-officer shall ascertain, and record for each mahál, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Enquiry into claims to hold free from revenue as against Government.

73. The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Power of Chief Commissioner to make rules.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Enquiry as to claims to hold free from revenue as against málguzárs.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption:

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

Chief Commissioner may make rules for disposal of such cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement-officer decides, under section seventy-three or section seventy-four, that land which has been held free from revenue, or at less than a full assessment, is

liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable;

76. The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

77. The Settlement-officer may determine disputes regarding any of the following matters (namely):—

(*a*) the right of any lambardár, mukaddam, patwárí, village-watchman or other village-servant to any customary dues, or other remuneration, and his liability to render any customary service in return for such dues or remuneration;

(*b*) the rights of persons resident in the village or holding lands comprised in the mahál, in or to the common land of the mahál and its produce, and the village-site;

(*c*) any customs relating to irrigation or to rights-of-way and other easements;

(*d*) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

78. If a dispute arises regarding any matter mentioned or referred to in sections sixty-eight, sixty-nine, seventy, seventy-two and seventy-seven, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such enquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Record-of-rights.

79. The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring mahals, a record-of-rights, and shall include in it—

(*a*) the results of the inquiries made under this chapter with regard to such mahál or group; and

(*b*) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

Chief Commissioner may make rules regarding record-of-rights.

80. The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

Record-of-rights to be made over to Deputy Commissioner.

81. When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

Effect of entries in record-of-rights.

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Suits to contest certain settlement decisions or entries.

83. Any person deeming himself aggrieved by any decision under section seventy-eight, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended:

Provided as follows:—

When any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit;

No persons by whom the record-of-rights was signed, and no persons claiming through or under them shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section seventy or section seventy-seven, clause (*b*), (*c*) or (*d*).

Revision of record-of-rights by Chief Commissioner.

84. After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise in respect of any entry of the descriptions referred to in section eighty-three duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections twenty-five and thirty-one, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

85. In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

Former settlements deemed to have been made under this Act.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

87. When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court,

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

Chief Commissioner may allot waste-land to málik-makbúzás entitled thereto.

89. When at any settlement made before this Act comes into force málik-makbúzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

PART IV.

OF REVENUE-ADMINISTRATION.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

Power of Chief Commissioner to regulate payment of land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

"Arrear." "Defaulters."

91. When any sum payable under a settlement or sub-settlement is not paid within the time at which it is payable under section ninety, such sum shall be deemed to be an arrear; and all the persons with whom such settlement or sub-settlement was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

Realization of Revenue from Málguzárs.

Tahsíldár's statement of account to be conclusive evidence of arrear.

92. A statement of account, authenticated by the signature of the Tahsíldár, shall, for the purposes of this chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Notice of demand.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes:—

(*a*) by arresting the defaulter and imprisoning him in the civil jail;

(*b*) by attaching and selling his moveable property;

(*c*) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management;

(*d*) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it;

(*e*) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same;

(*f*) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid;

(*g*) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued:

Provided as follows:—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot;

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the Chief Commissioner;

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section ninety-four, clause (*a*), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the Tahsíldár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the

tahsíl for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit, unless within such period the arrear is paid.

Procedure in sales of moveable property.

97. Attachments and sales of moveable property made under this chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (c).

98. After causing any attachment to be made under section ninety-four, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahál, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

99. During the continuance of an attachment under section ninety-eight, the defaulters shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to any subordinate proprietors or tenants of such land.

Profits of land how applied.

100. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment; and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession:

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

102. When it is proposed to execute the process mentioned in section ninety-four, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

No proceedings taken under this section shall affect the joint and several liability of the málguzárs of the mahál for arrears accruing in respect of such mahál subsequently to the transfer of the share or land except that, as regards all such arrears, the transferee shall stand in the place of the málguzár whose share or land is transferred.

Joint and several liability not affected by transfer.

Procedure after receipt of sanction to annulment of settlement.

103. When the Chief Commissioner sanctions the annulment of the settlement of any mahál, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahál, and either manage the mahál or any portion thereof himself or through an agent, or let the mahál or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs:

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahál being managed or farmed.

104. When a portion only of the mahál is managed or let in farm under section one hundred and three, the rest of such mahál shall be separately resettled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

105. As soon as the management or farm of any mahál or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section forty-nine to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahál; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahál or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

106. No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of, or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in sír-land.

107. No defaulter shall be deprived of the possession of his sír-land in the execution of any of the processes mentioned in section ninety-four, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner.

108. Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

Nature of estate taken by purchaser of land sold for arrears due thereon.

Nothing in this section shall—

(*a*) affect the rights of any proprietor superior or inferior to the defaulters or of any málik-makbúzá or occupancy-tenant who does not derive his rights as such proprietor, málik-makbúzá or tenant from express contract with such defaulters, or any person through whom they claim; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sír-land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure shall be followed, except in the following particulars (that is to say):—

Rules for sale of immoveable property.

(*a*) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed.

(*b*) The proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section ninety-four of this Act, declare that, subject to the provisions of section one hundred and eight, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement.

(*c*) The last two clauses of the said section 287 shall not apply.

(*d*) An appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner.

(*e*) The Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division.

(*f*) Section 309 of the said Code shall be read as if, after the words "for such payment," the words "and every sale of such property made after a postponement" were added.

(*g*) Section 313 of the said Code shall not apply to sales under section ninety-four, clause (*f*), of this Act.

(*h*) Section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

110. In the course of a sale under section ninety-four, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

Pre-emption at sales.

(*a*) any málguzár who has paid the revenue which as between him and the other málguzárs is payable by him;

(*b*) if the superior proprietorship is sold, the inferior proprietor;

(*c*) if the inferior proprietorship is sold, the superior proprietor:

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

111. The proceeds of every sale in execution of any process mentioned in section ninety-four shall be applied, first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Application of proceeds of sale of immoveable property.

112. The costs of serving a notice of demand under section ninety-three and of enforcing any process mentioned in section ninety-four shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Costs recoverable as part of arrear.

113. The Chief Commissioner may make rules—

Matters as to which Chief Commissioner may make rules.

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section ninety-three and executing the processes mentioned in section ninety-four;

(*b*) defining the classes of officers by whom the processes mentioned in section ninety-four, clauses (*a*) and (*b*), may be enforced;

(*c*) prescribing the agency by which any of the processes issued under section ninety-four shall be executed.

114. Notwithstanding anything contained in section ninety-two, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due,

Remedies open to person denying that sum demanded as an arrear is due.

pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Realization of Revenue by Málguzárs.

Limitation of right to set-off, &c., in suit for arrears.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

(*a*) set-off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

Recovery of arrear through Deputy Commissioner instead of by suit.

116. Any lambardár or sub-lambardár entitled to recover an arrear, or any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section one hundred and fourteen in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

117. Nothing in the Indian Limitation Act, 1877, and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.

Interest on Arrears.

Interest on arrears.

119. Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs; provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

Correction of record-of-rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds and on no others:—

(*a*) that all persons interested in such entry wish to have it corrected; or

(*b*) that by a decree in a suit brought under section eighty-three it has been declared to be erroneous; or

(*c*) that, being founded on a decree or order of a Civil Court, or on the order of a Revenue or Settlement officer, it is not in accordance with such decree or order; or

(*d*) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of record in accordance with provision therein contained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

Powers of Deputy Commissioner as to correction of entry or revision of record.

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

123. The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment of violation of such rule or custom.

If any of the persons with whom a settlement or sub-settlement has been made, violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Suit to set aside proceedings under section 123.

124. Any person against whom proceedings have been taken under section one hundred and twenty-three may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings, and direct that any penalty paid by the

plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

125. The Chief Commissioner may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein subsequently to the preparation of the record-of-rights, prepare, or, where there is a patwárí, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner, as the Chief Commissioner may, from time to time, prescribe;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldár of the tahsíl in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

Notice to be given by guardian in case of minority or idiotcy.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Fine for neglect to give notice of possession.

127. Any person neglecting to give the notice required by section one hundred and twenty-six shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section one hundred and twenty-five.

Fees for recording changes;

129. The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section one hundred and twenty-five, and may fix the amount of such fees.

from whom leviable.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual enquiry regarding land held free from revenue.

130. The Deputy Commissioner shall in each year make enquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the Division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the Division for the sanction of the Chief Commissioner.

Inspection of revenue-records.

131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE-OFFICERS.

Purposes for which, when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes:—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair;

(*b*) assessing land-revenue on lands which are liable to assessment, but have not been assessed;

(*c*) declaring any local area to be a mahál;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be readmitted;

(*e*) settling mahál in respect of which an application has been made under the third proviso to section fifty-six;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs;

(*g*) assessing lands gained by alluvion;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement.

Purposes for which officers may be invested with Settlement-officers' powers.

133. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections forty, forty-one and forty-two; or,

with the sanction of the Governor General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section fifty-six.

Cognizance of, and penalty for, offence of injuring boundary-marks.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Náib Tahsíldár empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may in the opinion of such officer be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Procedure when person injuring cannot be found.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Partition of a mahál into two maháls.

136. Any málguzárs of a mahál who are not co-sharers with the other málguzárs of such mahál in any lands comprised in such mahál, except such lands as are under the law relating to partition for the time being in force indivisible, may apply to the Deputy Commissioner to make the lands held by them separately from such other málguzárs a separate mahál; and the Deputy Commissioner shall thereupon make such lands and the lands held separately by the remaining málguzárs separate maháls, and shall, with the previous sanction of the Commissioner, apportion between the two new maháls thus constituted the entire revenue assessed upon the original mahál.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWÁRIS.

Power to make rules as to officers.

137. The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardárs and mukaddams:

Provided that, except with the previous sanction of the Governor General in Council, proprietors, other than málik-makbúzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent. on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam.

Duties of lambardárs.

138. It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Government Treasury so much of the land-revenue as may under section seventy-one be payable through him, either solely or jointly with other lambardárs or sub-lambardárs;

(*b*) to collect and pay to the mukaddam, or into the Government Treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam, patwárís or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

139. Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such; and

(*b*) the sum which, under section one hundred and thirty-eight, they are bound to pay to mukaddams:

Provided that no such recovery shall be made from málik-makbúzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy Commissioner may alter channel through which málik-makbúzá pays revenue.

140. On the application of any málik-makbúzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-makbúzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government Treasury.

Effect of order for payment of revenue direct to Government.

When the Deputy Commissioner orders such payment to be made into the Government Treasury, such portion of the percentage fixed under section sixty-four as the Deputy Commissioner, subject to the control of the Chief Commissioner, may determine, shall be so paid, and the málik-makbúzá or other person shall pay the rest to the mukaddams on account of their fees and the other village-expenses.

Duties of mukaddams.

141. It shall be the duty of every mukaddam—

(*a*) to control and superintend the village-patwárí and village-watchmen; to report their deaths or absence from duty; to maintain them in the possession of any lands appertaining to their office; to recover and pay to them any cash allowances to which they may be entitled; and to take such steps as may be necessary to compel them to perform their duties;

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf ;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village ;

(*d*) to preserve such stations and marks erected in his village by Government-surveyors as may be made over to his care ;

(*e*) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition ;

(*f*) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled ;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village ;

(*h*) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section ; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*e*) in respect of such village, and for apportioning such charges among such persons ; and

(3) determining the officers to whom reports under this section shall be made.

Liabilities imposed by law on landholders to attach to mukaddams.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Provided that nothing herein contained shall discharge landholders, their managers or agents, or the like, from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

143. Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Chief Commissioner may make rules as to patwáris.

144. The Chief Commissioner may make rules—

(*a*) regulating the manner in which patwáris are to be selected ; prescribing the conditions under which they may be appointed ; and fixing the limits of their circles and the nature, mode and amount of their remuneration ;

(*b*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act ;

(*c*) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed :

Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall be compelled to pay as remuneration to patwáris a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessable on his land if it were liable to assessment.

Chief Commissioner may make rules for guidance of Deputy Commissioners in certain matters.

145. The Chief Commissioner may make rules for the guidance of Deputy Commissioners in dealing with cases where, at the time of making the settlement next before this Act comes into force, the maintenance of a patwári was made optional, and the persons settled with are unable to agree as to whether a patwári should be maintained, and for dealing with cases where no patwári is, under such option, maintained and the mukaddams or proprietors have made default in the performance of the duties of a patwári.

Such rules may empower the Deputy Commissioner, in the latter class of cases—

(*a*) to impose fines not exceeding fifty rupees on such mukaddams or proprietors, and therefrom to make provision for the temporary performance of the duties in respect of which they have made default ;

(*b*) to appoint patwáris in the villages of such proprietors, either for the term of the settlement or for any shorter term, and to fix the remuneration of such patwáris.

Nothing in the proviso to section one hundred and forty-four shall apply to patwáris so appointed.

Chief Commissioner may define duties of patwáris.

146. The Chief Commissioner may make rules prescribing the duties of patwáris—

(*a*) towards the Government ; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished ;

(*b*) towards the members of the village-community ; and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties.

Patwáris' papers to be public documents.

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

Patwáris to produce papers for inspection, and to allow copies to be made.

147. Patwáris shall produce at all reasonable times, for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

Existing officers confirmed.

148. All existing lambardárs, sub-lambardárs, mukaddams and patwáris shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Lambardárs' and other officers' dues recoverable as arrears.

149. Any sums which lambardárs, sub-lambardárs, mukaddams and patwáris are entitled to recover or demand under this chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Holders of sír-land in Sambalpúr to provide for remuneration of mukaddams.

150. In each village of the district of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation.

PART V.

CHAPTER XII.

MISCELLANEOUS.

Right to mines and quarries.

151. Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers, and the right to extract sap from all palmyra and cocoanut trees, shall be deemed to belong to Government; and the Government shall have all powers necessary for the proper enjoyment of such rights:

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

152. Except as otherwise hereinbefore provided,—

Exclusive jurisdiction of Revenue-authorities.

(*a*) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or Settlement officer is, by this Act, empowered to determine or dispose of; and in particular

Matters excepted from jurisdiction of Civil Courts.

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters:—

(1) any matters provided for in sections forty, forty-one, forty-two and eighty-nine, as to waste-lands:

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him:

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force:

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement:

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner:

(6) the amount of the allowance or rent fixed under section sixty-one or sixty-two:

(7) the redistribution according to established custom, by a Settlement-officer, of land comprised in a mahál:

(8) the formation of the record-of-rights,

the preparation, signing or attestation of any of the documents contained therein, or

the notification of settlement:

(9) any matters provided for or referred to in section seventy-three, seventy-four or one hundred and thirty as to lands held or assessed to be held free from revenue, existing rights arising under any contract with the Government of India and [illegible] of land:

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue:

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue:

(12) corrections of entries or revisions of records under sections one hundred and twenty, one hundred and twenty-one and one hundred and twenty-two:

(13) claims to have a partition and apportionment made under section one hundred and thirty-six, and questions as to the distribution or apportionment under that section of the land or of the revenue of a mahál:

(14) claims to the office of patwári, lambardár, sub-lambardár or mukaddam, or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof:

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

For what village-cesses suit lies.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village-cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section one hundred and thirty-two, clause (*h*).

Limitation of claims for compensation in case of waste-land demarcated as property of Government.

154. Whenever, at any settlement made before this Act comes into force, waste-lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Restriction on Revenue and Settlement officers trading and holding land.

155. No Revenue or Settlement officer, and no person employed in any Revenue or Settlement office, shall, except with the express permission of the Chief Commissioner,—

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed;

(*b*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner.

156. When any mahál is managed or let in farm under section fifty-seven or fifty-eight, or when either of the proclamations mentioned in sections ninety-eight and one hundred and three has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee; and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

Payment to proprietor in anticipation of due date.

Recovery of balances due by farmers.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of revenue due when Act comes into force;

and of money payable under Act.

158. All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Past proceedings for collection of revenue legalized.

159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Chief Commissioner may empower persons by name, or confer powers on classes.

160. In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Commissioner may vary or cancel orders.

161. The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Chief Commissioner may make rules and attach penalty to breach thereof.

162. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
Act XII of 1841.	For amending the Bengal Code in regard to sales of land for arrears of revenue.	So much as has not been repealed.
Act I of 1847	For the establishment and maintenance of boundary-marks in the North-Western Provinces of Bengal.	The whole.
Act XXXI of 1858.	To make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The whole.

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(Nothing hereinafter contained shall be deemed to have the force of law.)

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th June, 1881, and is hereby promulgated for general information:—

ACT No. XVIII OF 1881.

THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.

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SCHEDULE—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Land-revenue and the powers of Revenue-officers in the Central Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows:—

PART I.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Central Provinces Land-revenue Act, 1881":

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces, except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874:

Commencement.

And it shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette.

Enactments repealed.

2. On and from such day the enactments mentioned in the schedule hereto annexed, so far as they relate to the territories to which this Act extends, and all other rules, regulations and enactments relating to the settlement and collection of the land-revenue in such territories, shall be repealed.

Pending proceedings.

3. All proceedings relating to matters dealt with by this Act and, when this Act comes into force, pending before officers by whom they would be cognizable under this Act, shall be deemed, so far as may be, to have been commenced hereunder.

Interpretation-clause.

4. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner":

(1) "Assistant Commissioner" includes also "Extra Assistant Commissioner":

"Legal Practitioner":

(2) "Legal Practitioner" means an advocate, vakíl or attorney of any High Court, a pleader, mukhtár or revenue-agent:

"Village-cess":

(3) "Village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, and includes service rendered or things furnished as well as money paid:

"Recognized agent":

(4) "Recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf:

"Agricultural year":

(5) "Agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint:

"Sír-land":

(6) "Sír-land" means (*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which such land is situate; and (*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (*d*) in Sambalpúr, includes also "bhogra" land.

Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

"Mahál":

(7) "Mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál:

"Village":

(8) "Village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act:

"Málguzár":

(9) "Málguzár" means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns; and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns:

(10) "Málik-makbúzá" means any person owning one or more plots of land assessed with revenue in a mahál; but it does not include a málguzár or inferior proprietor:

"Málik-makbúzá":

(11) "Lambardár" means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government:

"Lambardár":

(12) "Sub-lambardár" means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors:

"Sub-lambardár":

(13) "Mukaddam" means the executive headman of a village, appointed in manner prescribed by this Act:

"Mukaddam":

(14) "Tenant" means a person who holds land of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person; but it does not include a farmer, mortgagee or thekadár of proprietary rights.

"Tenant":

Explanation.—An inferior proprietor is not, as such, a tenant:

(15) "Rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

"Rent":

(16) "Absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force, or after such a settlement but before this Act comes into force, was recorded, by order of a Revenue or Settlement officer, in respect of such land, as an "absolute occupancy-raiyat," or in terms equivalent thereto:

"Absolute occupancy-tenant":

(17) "Record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before this Act comes into force.

"Record-of-rights."

PART II.

CHAPTER II.

OF REVENUE-OFFICERS: THEIR POWERS AND PROCEDURE.

Chief Controlling Revenue-authority.

5. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

Revenue-officers.

6. Besides the Chief Commissioner, there shall be the following classes of Revenue-officers (namely):—

(*a*) Commissioners, who, subject to the control of the Chief Commissioner, shall be the Chief Revenue-authorities within their respective divisions:

(*b*) Deputy Commissioners, who, subject to the control of the Commissioner, shall be the Chief Revenue-authorities within their respective districts:

(*c*) Assistant Commissioners, who shall be subordinate to, and under the control of, the Deputy Commissioners of the districts to which they are respectively attached:

(*d*) Tahsíldárs, who, subject to the control of the Deputy Commissioner, shall be the Chief Executive Revenue-authorities in the tahsíls to which they are respectively attached:

(*e*) Náib Tahsíldárs, who shall be subordinate to the Tahsíldárs of the tahsíls to which they are respectively attached.

Appointment, suspension and removal of Commissioners, Deputy and Assistant Commissioners.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, and may suspend or remove, Commissioners, Deputy Commissioners and Assistant Commissioners.

Appointment, suspension and removal of Tahsíldárs and Náib Tahsíldárs.

8. The Chief Commissioner shall appoint, and may suspend or remove, Tahsíldárs; and may also make rules for regulating the appointment, duties, suspension and removal of Náib Tahsíldárs.

Persons holding office when Act comes into force.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Tahsíldárs and Náib Tahsíldárs holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

Power to appoint additional Commissioners, Deputy Commissioners and Tahsíldárs.

10. The Chief Commissioner may appoint any person to be an additional Tahsíldár in any tahsíl, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner or additional Deputy Commissioner, to the like sanction.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Tahsíldár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Tahsíldár, as the case may be.

Chief Commissioner may invest Assistant Commissioner with powers of Deputy Commissioner.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

Officers transferred to retain powers with which they were invested.

12. Whenever any Assistant Commissioner, Tahsíldár or Náib Tahsíldár is transferred from one district or tahsíl to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsíl to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsíl from which he is transferred.

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act, until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor

takes charge of his office, or until the person so disabled resumes charge of his office.

Chief Commissioner may alter limits of district or tahsil.

14. The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsil, create new districts or tahsils and abolish existing districts or tahsils.

Power to invest Revenue-officers,—

15. The Chief Commissioner may, subject to the control of the Governor General in Council, invest any Revenue-officer with any of the following powers :—

with power conferred by Code of Civil Procedure;

for the purpose of disposing of cases under this Act, any power conferred by the Code of Civil Procedure on a Civil Court;

with power to delegate powers.

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act;

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

Power of Deputy Commissioner to distribute work.

16. Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal; or

(*b*) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

Power of superior Revenue-authorities to withdraw and transfer cases.

17. The Chief Commissioner, the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Revenue-officers to enter on land, &c.

18. All Revenue-officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power to make rules to regulate procedure.

19. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

Persons by whom appearances and applications may be made before and to Revenue-officers.

20. All appearances before, applications to, and acts to be done before, any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves; or,

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner:

Obligation of parties to attend in person.

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Legal practitioner's or agent's fees not allowed unless for special reasons.

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Appeals.

22. An appeal shall lie against every decision or order under this Act—

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner exercising the powers of a Deputy Commissioner,—to the Deputy Commissioner;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal,—to the Commissioner of the division;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division,—to the Chief Commissioner:

Provided that in no case shall a third appeal be allowed.

Limitation of appeals.

23. No appeal shall lie—

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(*c*) in the Court of the Chief Commissioner—after the expiration of ninety days from such date.

In computing such periods of limitation, and in all respects not herein specified, the provisions of the Indian Limitation Act, 1877, shall apply.

Powers of revision of Commissioner and Deputy Commissioner.

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of Chief Commissioner.

25. The Chief Commissioner may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner has given the parties interested an opportunity of being heard.

Review of orders.

26. Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm orders passed by himself or by any of his predecessors in office:

Provided as follows—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate:

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

PART III.

OF SURVEY AND SETTLEMENT.

CHAPTER III.

PRELIMINARY.

Notification of revenue-survey.

27. Whenever it appears to the Chief Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made, and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen may enter upon the lands to be surveyed, and erect survey-marks, and do all other acts necessary for making the survey.

Effect thereof.

Notification of settlement.

28. When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

(*a*) define the local area to be settled;

(*b*) specify the operations which are to be carried out in the settlement;

and may from time to time, with the like sanction, amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

Power to appoint Settlement-officers;

29. The Chief Commissioner may, from time to time, appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area; and when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer) to control such settlement; and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

and to suspend and remove them.

The Chief Commissioner may suspend or remove any officer appointed under this section.

Settlement-officer may be invested with powers of Deputy Commissioner.

30. During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may, from time to time, direct.

Certain provisions of Chapter II applied to Settlement-officers.

31. The provisions of section eleven and sections fifteen to twenty-six, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement-officer," for the expression "Deputy Commissioner," wherever those expressions occur:

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order:

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

Appointment of Settlement-Commissioner;

32. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) appoint a Settlement-Commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement; and

(*b*) delegate to the Settlement-Commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Delegation to him of Chief Commissioner's powers.

33. When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of the first five grades of Courts described in section four of the Central Provinces Courts' Act, 1865, and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, sections twelve, nineteen and twenty, for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely) :—

Power to invest Settlement-officers with Civil Court powers.

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like ;

(*b*) suits by lambardárs for arrears of revenue payable through them by the proprietors whom they represent ;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts ;

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees ;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors ;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession ;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance ;

(*h*) suits relating to land, or the rent, profits or occupation of land.

34. When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section thirty-three, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in the Central Provinces Courts' Act, 1865, sections twelve, nineteen and twenty, with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

Chief Settlement-officer to have powers of Deputy Commissioner.

35. When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section thirty-three in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts of the first four grades aforesaid, by Assistant Commissioners or Tahsíldárs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

36. When any local area is under settlement and the Settlement-officers therein have been invested with powers under section thirty-three, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or he may direct that, in respect of such suits, the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts :

Division of civil work between Settlement-officers and ordinary Courts.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

37. Nothing in section thirty-one shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section thirty-three, thirty-four or thirty-five.

Provisions of section 31 not to apply to certain suits.

38. Except as provided in sections thirty-three, thirty-four and thirty-five, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section twenty-two from such decrees or orders.

Appeal, reference and revision.

39. Every settlement notified under section twenty-eight shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Duration of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease ; and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the Division directs, or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

Cases pending at close of settlement-operations.

CHAPTER IV.

OF DEMARCATION.

Unowned Lands.

40. When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

Settlement-officer to invite claims to lands appearing to have no owner.

Application of Act XXIII of 1863.

41. Every such notification shall be deemed to be an advertisement under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste lands*), section one;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over, any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said Act No. XXIII of 1863, section seven, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

Mahâls.

Power to form mahâls.

43. The Settlement-officer may declare any local area to be a mahâl.

Excluded Lands.

Settlement-officer may exclude any town or land from settlement operations.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section twenty-eight shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Boundary-marks.

Erection of new, and repair of existing, boundary-marks.

45. When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahâls, fields or other lands in their possession, or to repair boundary-marks already existing; and may fix a reasonable time for obeying his order;

and if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

Separate sum to be assessed on every mahâl.

46. On every mahâl a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect.

Progressive assessments.

Matters as to which Chief Commissioner is to instruct Settlement-officer.

47. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

What land taken into account in assessing mahâl.

48. In assessing a mahâl all land situate therein shall be taken into account except the following (that is to say):—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands;

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force;

(*c*) land excluded from assessment under section forty-four;

(*d*) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained;

(*e*) land which the Chief Commissioner, subject to the control of the Governor General in Council, may, from time to time, exempt from assessment.

Assessment to whom to be offered.

49. The assessment of every mahâl shall be offered to the entire proprietary body of such mahâl: provided that, when superior and inferior proprietary rights co-exist in the same mahâl, the Settlement-officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahâl shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahâl, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

50. When in a mahâl in which superior and inferior proprietors co-exist, the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahâl is assessed and to the profits to which the superior proprietors are entitled under section forty-nine.

Power to give directions as to payment of certain profits of superior proprietors.

51. When in any such mahâl the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior

proprietors are entitled under section forty-nine, shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government Treasury.

Power to make rules for reporting assessment for sanction.

52. The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Offers of assessment to be made subject to revision and confirmation.

53. In making any offer of assessment the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council, and also to revision by the Chief Commissioner at any time before such confirmation is received.

Option to accept or refuse assessment.

54. It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

Mode of acceptance.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time, prescribe in this behalf, and deliver the same to the Settlement-officer.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

55. Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Effect of acceptance of assessment.

56. Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect: Provided as follows:—

Assessment may be rescinded by Chief Commissioner;

1st—any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;

or by Governor General in Council.

2ndly—the Governor General in Council may rescind any assessment submitted to him for confirmation;

Málguzárs may object to continuance of assessment beyond term of settlement.

3rdly—if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

Procedure when assessment is refused.

57. Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section fifty-four the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm, or take it under direct management.

Procedure when only some proprietors accept assessment.

58. If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion, and either let their lands in farm or take such lands under direct management.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it the mahál shall be dealt with under the provisions of section fifty-seven.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál, and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

59. When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist—

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section fifty-seven;

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section fifty-eight:

Provided that if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure on refusal of assessment by inferior proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section fifty, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

61. Any proprietor excluded from settlement under section fifty-seven or section fifty-nine, clause (*a*), shall be entitled to receive from the Government an

annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent., or more than ten per cent., on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy-rights in their sír-land.

62. Any proprietor excluded from settlement or sub-settlement under sections fifty-seven to sixty, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

63. The aggregate amount of any allowance under section sixty-one, and of the difference between the rent fixed under section sixty-two and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount of the assessment offered to him by the Settlement-officer.

Sub-settlement with málik-makbúzás and other like holders of land.

64. The Settlement-officer may make, on behalf of málik-makbúzás or other like holders of land, such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent., as may in his opinion be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

Revenue payable under sub-settlement to be first charge on land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Settlement-officer to apportion assessment over lands held in severalty;

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

to redistribute land according to custom.

67. When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors;

68. The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

to determine extent of sír-land;

69. The Settlement-officer shall ascertain the situation and determine the extent of all the land held as sír in each mahál.

to decide disputes among shareholders regarding management of mahál;

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to determine through what lambardárs revenue shall be paid;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor or málik-makbúzá shall be paid.

to ascertain status and rents of tenants.

72. The Settlement-officer shall ascertain, and record for each mahál, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Enquiry into claims to hold free from revenue as against Government.

73. The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Power of Chief Commissioner to make rules.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Enquiry as to claims to hold free from revenue as against málguzárs.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption:

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

Chief Commissioner may make rules for disposal of such cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement-officer decides, under section seventy-three or section seventy-four, that land which has been held free from revenue, or at less than a full assessment, is

liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable;

76. The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

77. The Settlement-officer may determine disputes regarding any of the following matters (namely):—

(*a*) the right of any lambardár, mukaddam, patwárí, village-watchman or other village-servant to any customary dues, or other remuneration, and his liability to render any customary service in return for such dues or remuneration;

(*b*) the rights of persons resident in the village or holding lands comprised in the mahál, in or to the common land of the mahál and its produce, and the village-site;

(*c*) any customs relating to irrigation or to rights-of-way and other easements;

(*d*) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

78. If a dispute arises regarding any matter mentioned or referred to in sections sixty-eight, sixty-nine, seventy, seventy-two and seventy-seven, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such enquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Record-of-rights.

79. The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring maháls, a record-of-rights, and shall include in it—

(*a*) the results of the inquiries made under this chapter in respect of such mahál or group; and

(*b*) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

Chief Commissioner may make rules regarding record-of-rights.

80. The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

Record-of-rights to be made over to Deputy Commissioner.

81. When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

Effect of entries in record-of-rights.

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Suits to contest certain settlement decisions or entries.

83. Any person deeming himself aggrieved by any decision under section seventy-eight, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended:

Provided as follows:—

When any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit:

No persons by whom the record-of-rights was signed, and no persons claiming through or under them shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section seventy or section seventy-seven, clause (*b*), (*c*) or (*d*).

Revision of record-of-rights by Chief Commissioner.

84. After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise in respect of any entry of the descriptions referred to in section eighty-three duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections twenty-five and thirty-one, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

85. In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

Former settlements deemed to have been made under this Act.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

87. When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

Chief Commissioner may allot waste-land to málik-makbúzás entitled thereto.

89. When at any settlement made before this Act comes into force málik-makbúzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

PART IV.

OF REVENUE-ADMINISTRATION.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

Power of Chief Commissioner to regulate payment of land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

"Arrear."
"Defaulters."

91. When any sum payable under a settlement or sub-settlement is not paid within the time at which it is payable under section ninety, such sum shall be deemed to be an arrear; and all the persons with whom such settlement or sub-settlement was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

Realization of Revenue from Málguzárs.

Tahsíldár's statement of account to be conclusive evidence of arrear.

92. A statement of account, authenticated by the signature of the Tahsíldár, shall, for the purposes of this chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Notice of demand.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes:—

(*a*) by arresting the defaulter and imprisoning him in the civil jail;

(*b*) by attaching and selling his moveable property;

(*c*) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management;

(*d*) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it;

(*e*) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same;

(*f*) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid;

(*g*) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued:

Provided as follows:—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot;

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the Chief Commissioner;

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section ninety-four, clause (*a*), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the Tahsíldár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the

tahsíl for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit, unless within such period the arrear is paid.

Procedure in sales of moveable property.

97. Attachments and sales of moveable property made under this chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (c).

98. After causing any attachment to be made under section ninety-four, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahál, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

99. During the continuance of an attachment under section ninety-eight, the defaulters shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to any subordinate proprietors or tenants of such land.

Profits of land how applied.

100. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment; and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession:

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

102. When it is proposed to execute the process mentioned in section ninety-four, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the málguzárs of the mahál for arrears accruing in respect of such mahál subsequently to the transfer of the share or land except that, as regards all such arrears, the transferee shall stand in the place of the málguzár whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

103. When the Chief Commissioner sanctions the annulment of the settlement of any mahál, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahál, and either manage the mahál or any portion thereof himself or through an agent, or let the mahál or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs:

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahál being managed or farmed.

104. When a portion only of the mahál is managed or let in farm under section one hundred and three, the rest of such mahál shall be separately resettled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

105. As soon as the management or farm of any mahál or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section forty-nine to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahál; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahál or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

106. No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of, or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in sír-land.

107. No defaulter shall be deprived of the possession of his sír-land in the execution of any of the processes mentioned in section ninety-four, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner.

108. Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

Nature of estate taken by purchaser of land sold for arrears due thereon.

Nothing in this section shall—

(*a*) affect the rights of any proprietor superior or inferior to the defaulters or of any málik-makbúzá or occupancy-tenant who does not derive his rights as such proprietor, málik-makbúzá or tenant from express contract with such defaulters, or any person through whom they claim; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sír-land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure shall be followed, except in the following particulars (that is to say):—

Rules for sale of immoveable property.

(*a*) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed.

(*b*) The proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section ninety-four of this Act, declare that, subject to the provisions of section one hundred and eight, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement.

(*c*) The last two clauses of the said section 287 shall not apply.

(*d*) An appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner.

(*e*) The Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division.

(*f*) Section 309 of the said Code shall be read as if, after the words "for such payment," the words "and every sale of such property made after a postponement" were added.

(*g*) Section 313 of the said Code shall not apply to sales under section ninety-four, clause (*f*), of this Act.

(*h*) Section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

110. In the course of a sale under section ninety-four, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

Pre-emption at sales.

(*a*) any málguzár who has paid the revenue which as between him and the other málguzárs is payable by him;

(*b*) if the superior proprietorship is sold, the inferior proprietor;

(*c*) if the inferior proprietorship is sold, the superior proprietor:

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

111. The proceeds of every sale in execution of any process mentioned in section ninety-four shall be applied, first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Application of proceeds of sale of immoveable property.

112. The costs of serving a notice of demand under section ninety-three and of enforcing any process mentioned in section ninety-four shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Costs recoverable as part of arrear.

113. The Chief Commissioner may make rules—

Matters as to which Chief Commissioner may make rules.

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section ninety-three and executing the processes mentioned in section ninety-four;

(*b*) defining the classes of officers by whom the processes mentioned in section ninety-four, clauses (*a*) and (*b*), may be enforced;

(*c*) prescribing the agency by which any of the processes issued under section ninety-four shall be executed.

114. Notwithstanding anything contained in section ninety-two, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due,

Remedies open to person denying that sum demanded as an arrear is due.

pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Realization of Revenue by Málguzárs.

Limitation of right to set-off, &c., in suit for arrears.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

(*a*) set-off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

Recovery of arrear through Deputy Commissioner instead of by suit.

116. Any lambardár or sub-lambardár entitled to recover an arrear, or any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section one hundred and fourteen in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

117. Nothing in the Indian Limitation Act, 1877, and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.

Interest on Arrears.

Interest on arrears.

119. Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs; provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

Correction of record-of-rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds and on no others:—

(*a*) that all persons interested in such entry wish to have it corrected; or

(*b*) that by a decree in a suit brought under section eighty-three it has been declared to be erroneous; or

(*c*) that, being founded on a decree or order of a Civil Court, or on the order of a Revenue or Settlement officer, it is not in accordance with such decree or order; or

(*d*) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of record in accordance with provision therein contained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

Powers of Deputy Commissioner as to correction of entry or revision of record.

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

123. The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment of violation of such rule or custom.

If any of the persons with whom a settlement or sub-settlement has been made, violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Suit to set aside proceedings under section 123.

124. Any person against whom proceedings have been taken under section one hundred and twenty-three may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings, and direct that any penalty paid by the

plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

125. The Chief Commissioner may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein subsequently to the preparation of the record-of-rights, prepare, or, where there is a patwárí, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner, as the Chief Commissioner may, from time to time, prescribe;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldár of the tahsíl in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

Notice to be given by guardian in case of minority or idiotcy.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Fine for neglect to give notice of possession.

127. Any person neglecting to give the notice required by section one hundred and twenty-six shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section one hundred and twenty-five.

Fees for recording changes; from whom leviable.

129. The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section one hundred and twenty-five, and may fix the amount of such fees.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual enquiry regarding land held free from revenue.

130. The Deputy Commissioner shall in each year make enquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the Division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the Division for the sanction of the Chief Commissioner.

Inspection of revenue-records.

131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE-OFFICERS.

Purposes for which, when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes:—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair;

(*b*) assessing land-revenue on lands which are liable to assessment, but have not been assessed;

(*c*) declaring any local area to be a mahál;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be readmitted;

(*e*) settling mahals in respect of which an application has been made under the third proviso to section fifty-six;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs;

(*g*) assessing lands gained by alluvion;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement.

Purposes for which officers may be invested with Settlement-officers' powers.

133. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections forty, forty-one and forty-two; or,

with the sanction of the Governor General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section fifty-six.

Cognizance of, and penalty for, offence of injuring boundary-marks.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Náib Tahsíldár empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may in the opinion of such officer be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Procedure when person injuring cannot be found.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Partition of a mahál into two maháls.

136. Any málguzárs of a mahál who are not co-sharers with the other málguzárs of such mahál in any lands comprised in such mahál, except such lands as are under the law relating to partition for the time being in force indivisible, may apply to the Deputy Commissioner to make the lands held by them separately from such other málguzárs a separate mahál; and the Deputy Commissioner shall thereupon make such lands and the lands held separately by the remaining málguzárs separate maháls, and shall, with the previous sanction of the Commissioner, apportion between the two new maháls thus constituted the entire revenue assessed upon the original mahál.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWÁRIS.

Power to make rules as to officers.

137. The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardárs and mukaddams:

Provided that, except with the previous sanction of the Governor General in Council, proprietors, other than málik-makbúzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent. on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam.

Duties of lambardárs.

138. It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Government Treasury so much of the land-revenue as may under section seventy-one be payable through him, either solely or jointly with other lambardárs or sub-lambardárs;

(*b*) to collect and pay to the mukaddam, or into the Government Treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam, patwáris or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

139. Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such; and

(*b*) the sum which, under section one hundred and thirty-eight, they are bound to pay to mukaddams:

Provided that no such recovery shall be made from málik-makbúzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy Commissioner may alter channel through which málik-makbúzá pays revenue.

140. On the application of any málik-makbúzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-makbúzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government Treasury.

Effect of order for payment of revenue direct to Government.

When the Deputy Commissioner orders such payment to be made into the Government Treasury, such portion of the percentage fixed under section sixty-four as the Deputy Commissioner, subject to the control of the Chief Commissioner, may determine, shall be so paid, and the málik-makbúzá or other person shall pay the rest to the mukaddams on account of their fees and the other village-expenses.

Duties of mukaddams.

141. It shall be the duty of every mukaddam—

(*a*) to control and superintend the village-patwárí and village-watchmen; to report their deaths or absence from duty; to maintain them in the possession of any lands appertaining to their office; to recover and pay to them any cash allowances to which they may be entitled; and to take such steps as may be necessary to compel them to perform their duties;

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village;

(*d*) to preserve such stations and marks erected in his village by Government-surveyors as may be made over to his care;

(*e*) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition;

(*f*) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village;

(*h*) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*e*) in respect of such village, and for apportioning such charges among such persons; and

(3) determining the officers to whom reports under this section shall be made.

Liabilities imposed by law on landholders to attach to mukaddams.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act:

Provided that nothing herein contained shall discharge landholders, their managers or agents, or the like, from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

143. Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Chief Commissioner may make rules as to patwáris.

144. The Chief Commissioner may make rules—

(*a*) regulating the manner in which patwáris are to be selected; prescribing the conditions under which they may be appointed; and fixing the limits of their circles and the nature, mode and amount of their remuneration;

(*b*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act;

(*c*) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed:

Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall be compelled to pay as remuneration to patwáris a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessable on his land if it were liable to assessment.

Chief Commissioner may make rules for guidance of Deputy Commissioners in certain matters.

145. The Chief Commissioner may make rules for the guidance of Deputy Commissioners in dealing with cases where, at the time of making the settlement next before this Act comes into force, the maintenance of a patwári was made optional, and the persons settled with are unable to agree as to whether a patwári should be maintained, and for dealing with cases where no patwári is, under such option, maintained and the mukaddams or proprietors have made default in the performance of the duties of a patwári.

Such rules may empower the Deputy Commissioner, in the latter class of cases—

(*a*) to impose fines not exceeding fifty rupees on such mukaddams or proprietors, and therefrom to make provision for the temporary performance of the duties in respect of which they have made default;

(*b*) to appoint patwáris in the villages of such proprietors, either for the term of the settlement or for any shorter term, and to fix the remuneration of such patwáris.

Nothing in the proviso to section one hundred and forty-four shall apply to patwáris so appointed.

Chief Commissioner may define duties of patwáris.

146. The Chief Commissioner may make rules prescribing the duties of patwáris—

(*a*) towards the Government; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished;

(*b*) towards the members of the village-community; and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties.

Patwáris' papers to be public documents.

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

Patwáris to produce papers for inspection, and to allow copies to be made.

147. Patwáris shall produce at all reasonable times, for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

148. All existing lambardárs, sub-lambardárs, mukaddams and patwáris shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Existing officers confirmed.

149. Any sums which lambardárs, sub-lambardárs, mukaddams and patwáris are entitled to recover or demand under this chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Lambardárs' and other officers' dues recoverable as arrears.

150. In each village of the district of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation.

Holders of sír-land in Sambalpúr to provide for remuneration of mukaddams.

PART V.

CHAPTER XII.

MISCELLANEOUS.

151. Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers, and the right to extract sap from all palmyra and cocoanut trees, shall be deemed to belong to Government; and the Government shall have all powers necessary for the proper enjoyment of such rights:

Right to mines and quarries.

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

152. Except as otherwise hereinbefore provided,—

Exclusive jurisdiction of Revenue-authorities.

(*a*) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or Settlement officer is, by this Act, empowered to determine or dispose of; and in particular

Matters excepted from jurisdiction of Civil Courts.

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters:—

(1) any matters provided for in sections forty, forty-one, forty-two and eighty-nine, as to waste-lands:

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him:

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force:

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement:

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner:

(6) the amount of the allowance or rent fixed under section sixty-one or sixty-two:

(7) the redistribution according to established custom, by a Settlement-officer, of land comprised in a mahál:

(8) the formation of the record-of-rights,

the preparation, signing or attestation of any of the documents contained therein, or

the notification of settlement:

(9) any matters provided for or referred to in section seventy-three, seventy-four or one hundred and thirty as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land:

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue:

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue:

(12) corrections of entries or revisions of records under sections one hundred and twenty, one hundred and twenty-one and one hundred and twenty-two:

(13) claims to have a partition and apportionment made under section one hundred and thirty-six, and questions as to the distribution or apportionment under that section of the land or of the revenue of a mahál:

(14) claims to the office of patwárí, lambardár, sub-lambardár or mukaddam, or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof:

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village-cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section one hundred and thirty-two, clause (*h*).

For what village-cesses suit lies.

Limitation of claims for compensation in case of waste-land demarcated as property of Government.

154. Whenever, at any settlement made before this Act comes into force, waste-lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Restriction on Revenue and Settlement officers trading and holding land.

155. No Revenue or Settlement officer, and no person employed in any Revenue or Settlement office, shall, except with the express permission of the Chief Commissioner,—

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed;

(*b*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner.

156. When any mahál is managed or let in farm under section fifty-seven or fifty-eight, or when either of the proclamations mentioned in sections ninety-eight and one hundred and three has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee; and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

Payment to proprietor in anticipation of due date.

Recovery of balances due by farmers.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of revenue due when Act comes into force;

and of money payable under Act.

158. All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Past proceedings for collection of revenue legalized.

159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Chief Commissioner may empower persons by name, or confer powers on classes.

160. In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Commissioner may vary or cancel orders.

161. The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Chief Commissioner may make rules and attach penalty to breach thereof.

162. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
Act XII of 1841.	For amending the Bengal Code in regard to sales of land for arrears of revenue.	So much as has not been repealed.
Act I of 1847	For the establishment and maintenance of boundary-marks in the North-Western Provinces of Bengal.	The whole.
Act XXXI of 1858.	To make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The whole.

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(Nothing hereinafter contained shall be deemed to have the force of law.)

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publicatin.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th June, 1881, and is hereby promulgated for general information :—

ACT No. XVIII OF 1881.

THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.

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SCHEDULE—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Land-revenue and the powers of Revenue-officers in the Central Provinces.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows:—

PART I.

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Central Provinces Land-revenue Act, 1881":

Local extent. It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces, except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874:

Commencement. And it shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette.

Enactments repealed. 2. On and from such day the enactments mentioned in the schedule hereto annexed, so far as they relate to the territories to which this Act extends, and all other rules, regulations and enactments relating to the settlement and collection of the land-revenue in such territories, shall be repealed.

Pending proceedings. 3. All proceedings relating to matters dealt with by this Act and, when this Act comes into force, pending before officers by whom they would be cognizable under this Act, shall be deemed, so far as may be, to have been commenced hereunder.

Interpretation-clause. 4. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner": (1) "Assistant Commissioner" includes also "Extra Assistant Commissioner":

"Legal Practitioner": (2) "Legal Practitioner" means an advocate, vakíl or attorney of any High Court, a pleader, mukhtár or revenue-agent:

"Village-cess": (3) "Village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, and includes service rendered or things furnished as well as money paid:

"Recognized agent": (4) "Recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf:

"Agricultural year": (5) "Agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint:

"Sír-land": (6) "Sír-land" means (*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which such land is situate; and (*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (*d*) in Sambalpúr, includes also "bhogra" land.

Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

"Mahál": (7) "Mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál:

"Village": (8) "Village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act:

"Málguzár": (9) "Málguzár" means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns; and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns;

(10) "Málik-makbúzá" means any person owning one or more plots of land assessed with revenue in a mahál; but it does not include a málguzár or inferior proprietor:

"Málik-makbúzá":

(11) "Lambardár" means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government:

"Lambardár":

(12) "Sub-lambardár" means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors:

"Sub-lambardár":

(13) "Mukaddam" means the executive headman of a village, appointed in manner prescribed by this Act:

"Mukaddam":

(14) "Tenant" means a person who holds land of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person; but it does not include a farmer, mortgagee or thekadár of proprietary rights.

"Tenant":

Explanation.—An inferior proprietor is not, as such, a tenant:

(15) "Rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

"Rent":

(16) "Absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force, or after such a settlement but before this Act comes into force, was recorded, by order of a Revenue or Settlement officer, in respect of such land, as an "absolute occupancy-raiyat," or in terms equivalent thereto:

"Absolute occupancy-tenant":

(17) "Record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before this Act comes into force.

"Record-of-rights."

PART II.

CHAPTER II.

OF REVENUE-OFFICERS: THEIR POWERS AND PROCEDURE.

Chief Controlling Revenue-authority.

5. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

Revenue-officers.

6. Besides the Chief Commissioner, there shall be the following classes of Revenue-officers (namely):—

(*a*) Commissioners, who, subject to the control of the Chief Commissioner, shall be the Chief Revenue-authorities within their respective divisions:

(*b*) Deputy Commissioners, who, subject to the control of the Commissioner, shall be the Chief Revenue-authorities within their respective districts:

(*c*) Assistant Commissioners, who shall be subordinate to, and under the control of, the Deputy Commissioners of the districts to which they are respectively attached:

(*d*) Tahsíldárs, who, subject to the control of the Deputy Commissioner, shall be the Chief Executive Revenue-authorities in the tahsíls to which they are respectively attached:

(*e*) Náib Tahsíldárs, who shall be subordinate to the Tahsíldárs of the tahsíls to which they are respectively attached.

Appointment, suspension and removal of Commissioners, Deputy and Assistant Commissioners.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, and may suspend or remove, Commissioners, Deputy Commissioners and Assistant Commissioners.

Appointment, suspension and removal of Tahsíldárs and Náib Tahsíldárs.

8. The Chief Commissioner shall appoint, and may suspend or remove, Tahsíldárs; and may also make rules for regulating the appointment, duties, suspension and removal of Náib Tahsíldárs.

Persons holding office when Act comes into force.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Tahsíldárs and Náib Tahsíldárs holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

Power to appoint additional Commissioners, Deputy Commissioners and Tahsíldárs.

10. The Chief Commissioner may appoint any person to be an additional Tahsíldár in any tahsíl, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner or additional Deputy Commissioner, to the like sanction.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Tahsíldár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Tahsíldár, as the case may be.

Chief Commissioner may invest Assistant Commissioner with powers of Deputy Commissioner.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

Officers transferred to retain powers with which they were invested.

12. Whenever any Assistant Commissioner, Tahsíldár or Náib Tahsíldár is transferred from one district or tahsíl to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsíl to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsíl from which he is transferred.

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act, until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor

takes charge of his office, or until the person so disabled resumes charge of his office.

Chief Commissioner may alter limits of district or tahsíl.

14. The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsíl, create new districts or tahsíls and abolish existing districts or tahsíls.

Power to invest Revenue-officers,—

15. The Chief Commissioner may, subject to the control of the Governor General in Council, invest any Revenue-officer with any of the following powers :—

with power conferred by Code of Civil Procedure;

for the purpose of disposing of cases under this Act, any power conferred by the Code of Civil Procedure on a Civil Court;

with power to delegate powers.

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act;

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

Power of Deputy Commissioner to distribute work.

16. Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal; or

(*b*) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

Power of superior Revenue-authorities to withdraw and transfer cases.

17. The Chief Commissioner, the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Revenue-officers to enter on land, &c.

18. All Revenue-officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power to make rules to regulate procedure.

19. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

Persons by whom appearances and applications may be made before and to Revenue-officers.

20. All appearances before, applications to, and acts to be done before, any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves; or,

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner:

Obligation of parties to attend in person.

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Legal practitioner's or agent's fees not allowed unless for special reasons.

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Appeals.

22. An appeal shall lie against every decision or order under this Act—

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner exercising the powers of a Deputy Commissioner,—to the Deputy Commissioner;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal,—to the Commissioner of the division;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division,—to the Chief Commissioner:

Provided that in no case shall a third appeal be allowed.

Limitation of appeals.

23. No appeal shall lie—

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(*c*) in the Court of the Chief Commissioner—after the expiration of ninety days from such date.

In computing such periods of limitation, and in all respects not herein specified, the provisions of the Indian Limitation Act, 1877, shall apply.

Powers of revision of Commissioner and Deputy Commissioner.

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of Chief Commissioner.

25. The Chief Commissioner may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner has given the parties interested an opportunity of being heard.

Review of orders.

26. Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm orders passed by himself or by any of his predecessors in office:

Provided as follows—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate:

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

PART III.

OF SURVEY AND SETTLEMENT.

CHAPTER III.

PRELIMINARY.

Notification of revenue-survey.

27. Whenever it appears to the Chief Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made, and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen may enter upon the lands to be surveyed, and erect survey-marks, and do all other acts necessary for making the survey.

Effect thereof.

Notification of settlement.

28. When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

(*a*) define the local area to be settled;

(*b*) specify the operations which are to be carried out in the settlement;

and may from time to time, with the like sanction, amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

Power to appoint Settlement-officers;

29. The Chief Commissioner may, from time to time, appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area; and when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer) to control such settlement; and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

and to suspend and remove them.

The Chief Commissioner may suspend or remove any officer appointed under this section.

Settlement-officer may be invested with powers of Deputy Commissioner.

30. During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may, from time to time, direct.

Certain provisions of Chapter II applied to Settlement-officers.

31. The provisions of section eleven and sections fifteen to twenty-six, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement-officer," for the expression "Deputy Commissioner," wherever those expressions occur:

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order:

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

Appointment of Settlement-Commissioner;

32. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) appoint a Settlement-Commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement; and

(*b*) delegate to the Settlement-Commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Delegation to him of Chief Commissioner's powers.

33. When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of the first five grades of Courts described in section four of the Central Provinces Courts' Act, 1865, and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, sections twelve, nineteen and twenty, for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely) :—

Power to invest Settlement-officers with Civil Court powers.

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like ;

(*b*) suits by lambardárs for arrears of revenue payable through them by the proprietors whom they represent ;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts ;

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees ;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors ;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession ;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance ;

(*h*) suits relating to land, or the rent, profits or occupation of land.

34. When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section thirty-three, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in the Central Provinces Courts' Act, 1865, sections twelve, nineteen and twenty, with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

Chief Settlement-officer to have powers of Deputy Commissioner.

35. When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section thirty-three in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts of the first four grades aforesaid, by Assistant Commissioners or Tahsildárs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

36. When any local area is under settlement and the Settlement-officers therein have been invested with powers under section thirty-three, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or he may direct that, in respect of such suits, the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts :

Division of civil work between Settlement-officers and ordinary Courts.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

37. Nothing in section thirty-one shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section thirty-three, thirty-four or thirty-five.

Provisions of section 31 not to apply to certain suits.

38. Except as provided in sections thirty-three, thirty-four and thirty-five, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section twenty-two from such decrees or orders.

Appeal, reference and revision.

39. Every settlement notified under section twenty-eight shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Duration of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease ; and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the Division directs, or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

Cases pending at close of settlement-operations.

CHAPTER IV.

OF DEMARCATION.

Unowned Lands.

40. When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

Settlement-officer to invite claims to lands appearing to have no owner.

Application of Act XXIII of 1863.

41. Every such notification shall be deemed to be an advertisement under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste lands*), section one;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over, any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said Act No. XXIII of 1863, section seven, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

Mahâls.

Power to form mahâls.

43. The Settlement-officer may declare any local area to be a mahâl.

Excluded Lands.

Settlement-officer may exclude any town or land from settlement operations.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section twenty-eight shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Boundary-marks.

Erection of new, and repair of existing, boundary-marks.

45. When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahâls, fields or other lands in their possession, or to repair boundary-marks already existing; and may fix a reasonable time for obeying his order;

and if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

Separate sum to be assessed on every mahâl.

46. On every mahâl a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect.

Progressive assessments.

Matters as to which Chief Commissioner is to instruct Settlement-officer.

47. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

What land taken into account in assessing mahâl.

48. In assessing a mahâl all land situate therein shall be taken into account except the following (that is to say):—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands;

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force;

(*c*) land excluded from assessment under section forty-four;

(*d*) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained;

(*e*) land which the Chief Commissioner, subject to the control of the Governor General in Council, may, from time to time, exempt from assessment.

Assessment to whom to be offered.

49. The assessment of every mahâl shall be offered to the entire proprietary body of such mahâl: provided that, when superior and inferior proprietary rights co-exist in the same mahâl, the Settlement-officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahâl shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahâl, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

50. When in a mahâl in which superior and inferior proprietors co-exist, the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahâl is assessed and to the profits to which the superior proprietors are entitled under section forty-nine.

Power to give directions as to payment of certain profits of superior proprietors.

51. When in any such mahâl the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior

proprietors are entitled under section forty-nine, shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government Treasury.

Power to make rules for reporting assessment for sanction.

52. The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Offers of assessment to be made subject to revision and confirmation.

53. In making any offer of assessment the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council, and also to revision by the Chief Commissioner at any time before such confirmation is received.

Option to accept or refuse assessment.

54. It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

Mode of acceptance.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time, prescribe in this behalf, and deliver the same to the Settlement-officer.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

55. Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Effect of acceptance of assessment.

56. Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect: Provided as follows:—

Assessment may be rescinded by Chief Commissioner;

1st—any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;

or by Governor General in Council.

2ndly—the Governor General in Council may rescind any assessment submitted to him for confirmation;

Málguzárs may object to continuance of assessment beyond term of settlement.

3rdly—if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

Procedure when assessment is refused.

57. Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section fifty-four the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm, or take it under direct management.

Procedure when only some proprietors accept assessment.

58. If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion, and either let their lands in farm or take such lands under direct management.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it the mahál shall be dealt with under the provisions of section fifty-seven.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál, and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

59. When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist—

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section fifty-seven;

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section fifty-eight:

Provided that if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure on refusal of assessment by inferior proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section fifty, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

61. Any proprietor excluded from settlement under section fifty-seven or section fifty-nine, clause (*a*), shall be entitled to receive from the Government an

annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent., or more than ten per cent., on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy-rights in their sír-land.

62. Any proprietor excluded from settlement or sub-settlement under sections fifty-seven to sixty, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

63. The aggregate amount of any allowance under section sixty-one, and of the difference between the rent fixed under section sixty-two and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount of the assessment offered to him by the Settlement-officer.

Sub-settlement with málik-makbúzás and other like holders of land.

64. The Settlement-officer may make, on behalf of málik-makbúzás or other like holders of land, such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent., as may in his opinion be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

Revenue payable under sub-settlement to be first charge on land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Settlement-officer to apportion assessment over lands held in severalty;

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

to redistribute land according to custom.

67. When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors;

68. The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

to determine extent of sír-land;

69. The Settlement-officer shall ascertain the situation and determine the extent of all the land held as sír in each mahál.

to decide disputes among shareholders regarding management of mahál;

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to determine through what lambardárs revenue shall be paid;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor or málik-makbúzá shall be paid.

to ascertain status and rents of tenants.

72. The Settlement-officer shall ascertain, and record for each mahál, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Enquiry into claims to hold free from revenue as against Government.

73. The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Power of Chief Commissioner to make rules.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Enquiry as to claims to hold free from revenue as against málguzárs.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption:

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

Chief Commissioner may make rules for disposal of such cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement-officer decides, under section seventy-three or section seventy-four, that land which has been held free from revenue, or at less than a full assessment, is

liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable;

76. The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

77. The Settlement-officer may determine disputes regarding any of the following matters (namely):—

(*a*) the right of any lambardár, mukaddam, patwári, village-watchman or other village-servant to any customary dues, or other remuneration, and his liability to render any customary service in return for such dues or remuneration;

(*b*) the rights of persons resident in the village or holding lands comprised in the mahál, in or to the common land of the mahál and its produce, and the village-site;

(*c*) any customs relating to irrigation or to rights-of-way and other easements;

(*d*) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

78. If a dispute arises regarding any matter mentioned or referred to in sections sixty-eight, sixty-nine, seventy, seventy-two and seventy-seven, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such enquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Record-of-rights.

79. The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring mahals, a record-of-rights, and shall include in it—

(*a*) the results of the inquiries made under this chapter in respect of such mahál or group; and

(*b*) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

Chief Commissioner may make rules regarding record-of-rights.

80. The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

Record-of-rights to be made over to Deputy Commissioner.

81. When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

Effect of entries in record-of-rights.

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Suits to contest certain settlement decisions or entries.

83. Any person deeming himself aggrieved by any decision under section seventy-eight, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended:

Provided as follows:—

When any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit:

No persons by whom the record-of-rights was signed, and no persons claiming through or under them shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section seventy or section seventy-seven, clause (*b*), (*c*) or (*d*).

Revision of record-of-rights by Chief Commissioner.

84. After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise in respect of any entry of the descriptions referred to in section eighty-three duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections twenty-five and thirty-one, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

85. In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

Former settlements deemed to have been made under this Act.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

87. When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

Chief Commissioner may allot waste-land to málik-makbúzás entitled thereto.

89. When at any settlement made before this Act comes into force málik-makbúzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

PART IV.

OF REVENUE-ADMINISTRATION.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

Power of Chief Commissioner to regulate payment of land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

"Arrear." "Defaulters."

91. When any sum payable under a settlement or sub-settlement is not paid within the time at which it is payable under section ninety, such sum shall be deemed to be an arrear; and all the persons with whom such settlement or sub-settlement was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

Realization of Revenue from Málguzárs.

Tahsíldár's statement of account to be conclusive evidence of arrear.

92. A statement of account, authenticated by the signature of the Tahsíldár, shall, for the purposes of this chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Notice of demand.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes:—

(*a*) by arresting the defaulter and imprisoning him in the civil jail;

(*b*) by attaching and selling his moveable property;

(*c*) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management;

(*d*) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it;

(*e*) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same;

(*f*) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid;

(*g*) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued:

Provided as follows:—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot;

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the Chief Commissioner;

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section ninety-four, clause (*a*), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the Tahsíldár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the

tahsíl for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit, unless within such period the arrear is paid.

Procedure in sales of moveable property.

97. Attachments and sales of moveable property made under this chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (*c*).

98. After causing any attachment to be made under section ninety-four, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahál, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

99. During the continuance of an attachment under section ninety-eight, the defaulters shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to any subordinate proprietors or tenants of such land.

Profits of land how applied.

100. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment; and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession:

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

102. When it is proposed to execute the process mentioned in section ninety-four, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the málguzárs of the mahál for arrears accruing in respect of such mahál subsequently to the transfer of the share or land except that, as regards all such arrears, the transferee shall stand in the place of the málguzár whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

103. When the Chief Commissioner sanctions the annulment of the settlement of any mahál, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahál, and either manage the mahál or any portion thereof himself or through an agent, or let the mahál or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs:

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahál being managed or farmed.

104. When a portion only of the mahál is managed or let in farm under section one hundred and three, the rest of such mahál shall be separately resettled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

105. As soon as the management or farm of any mahál or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section forty-nine to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahál; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahál or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

106. No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of, or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in sír-land.

107. No defaulter shall be deprived of the possession of his sír-land in the execution of any of the processes mentioned in section ninety-four, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner.

Nature of estate taken by purchaser of land sold for arrears due thereon.

108. Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

Nothing in this section shall—

(*a*) affect the rights of any proprietor superior or inferior to the defaulters or of any málik-makbúzá or occupancy-tenant who does not derive his rights as such proprietor, málik-makbúzá or tenant from express contract with such defaulters, or any person through whom they claim; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sír-land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

Rules for sale of immoveable property.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure shall be followed, except in the following particulars (that is to say):—

(*a*) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed.

(*b*) The proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section ninety-four of this Act, declare that, subject to the provisions of section one hundred and eight, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement.

(*c*) The last two clauses of the said section 287 shall not apply.

(*d*) An appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner.

(*e*) The Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division.

(*f*) Section 309 of the said Code shall be read as if, after the words "for such payment," the words "and every sale of such property made after a postponement" were added.

(*g*) Section 313 of the said Code shall not apply to sales under section ninety-four, clause (*f*), of this Act.

(*h*) Section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption at sales.

110. In the course of a sale under section ninety-four, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

(*a*) any málguzár who has paid the revenue which as between him and the other málguzárs is payable by him;

(*b*) if the superior proprietorship is sold, the inferior proprietor;

(*c*) if the inferior proprietorship is sold, the superior proprietor:

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

Application of proceeds of sale of immoveable property.

111. The proceeds of every sale in execution of any process mentioned in section ninety-four shall be applied, first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Costs recoverable as part of arrear.

112. The costs of serving a notice of demand under section ninety-three and of enforcing any process mentioned in section ninety-four shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Matters as to which Chief Commissioner may make rules.

113. The Chief Commissioner may make rules—

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section ninety-three and executing the processes mentioned in section ninety-four;

(*b*) defining the classes of officers by whom the processes mentioned in section ninety-four, clauses (*a*) and (*b*), may be enforced;

(*c*) prescribing the agency by which any of the processes issued under section ninety-four shall be executed.

Remedies open to person denying that sum demanded as an arrear is due.

114. Notwithstanding anything contained in section ninety-two, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due,

pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Realization of Revenue by Málguzárs.

Limitation of right to set-off, &c., in suit for arrears.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

(*a*) set-off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

Recovery of arrear through Deputy Commissioner instead of by suit.

116. Any lambardár or sub-lambardár entitled to recover an arrear, or any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section one hundred and fourteen in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

117. Nothing in the Indian Limitation Act, 1877, and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.

Interest on Arrears.

Interest on arrears.

119. Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs; provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

Correction of record-of-rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds and on no others:—

(*a*) that all persons interested in such entry wish to have it corrected; or

(*b*) that by a decree in a suit brought under section eighty-three it has been declared to be erroneous; or

(*c*) that, being founded on a decree or order of a Civil Court, or on the order of a Revenue or Settlement officer, it is not in accordance with such decree or order; or

(*d*) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of record in accordance with provision therein contained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

Powers of Deputy Commissioner as to correction of entry or revision of record.

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

123. The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment of violation of such rule or custom.

If any of the persons with whom a settlement or sub-settlement has been made, violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Suit to set aside proceedings under section 123.

124. Any person against whom proceedings have been taken under section one hundred and twenty-three may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings, and direct that any penalty paid by the

plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

125. The Chief Commissioner may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein subsequently to the preparation of the record-of-rights, prepare, or, where there is a patwárí, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner, as the Chief Commissioner may, from time to time, prescribe;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldár of the tahsíl in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

Notice to be given by guardian in case of minority or idiotcy.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Fine for neglect to give notice of possession.

127. Any person neglecting to give the notice required by section one hundred and twenty-six shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section one hundred and twenty-five.

Fees for recording changes;

129. The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section one hundred and twenty-five, and may fix the amount of such fees.

from whom leviable.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual enquiry regarding land held free from revenue.

130. The Deputy Commissioner shall in each year make enquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the Division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the Division for the sanction of the Chief Commissioner.

Inspection of revenue-records.

131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE-OFFICERS.

Purposes for which, when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes:—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair;

(*b*) assessing land-revenue on lands which are liable to assessment, but have not been assessed;

(*c*) declaring any local area to be a mahál;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be readmitted;

(*e*) settling maháls in respect of which an application has been made under the third proviso to section fifty-six;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs;

(*g*) assessing lands gained by alluvion;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement.

Purposes for which officers may be invested with Settlement-officers' powers.

133. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections forty, forty-one and forty-two; or,

with the sanction of the Governor General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section fifty-six.

Cognizance of, and penalty for, offence of injuring boundary-marks.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Náib Tahsíldár empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 484 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may in the opinion of such officer be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Procedure when person injuring cannot be found.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Partition of a mahál into two maháls.

136. Any málguzárs of a mahál who are not co-sharers with the other málguzárs of such mahál in any lands comprised in such mahál, except such lands as are under the law relating to partition for the time being in force indivisible, may apply to the Deputy Commissioner to make the lands held by them separately from such other málguzárs a separate mahál; and the Deputy Commissioner shall thereupon make such lands and the lands held separately by the remaining málguzárs separate maháls, and shall, with the previous sanction of the Commissioner, apportion between the two new maháls thus constituted the entire revenue assessed upon the original mahál.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWÁRIS.

Power to make rules as to officers.

137. The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardárs and mukaddams:

Provided that, except with the previous sanction of the Governor General in Council, proprietors, other than málik-makbúzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent. on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam.

Duties of lambardárs.

138. It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Government Treasury so much of the land-revenue as may under section seventy-one be payable through him, either solely or jointly with other lambardárs or sub-lambardárs;

(*b*) to collect and pay to the mukaddam, or into the Government Treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam, patwáris or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

139. Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such; and

(*b*) the sum which, under section one hundred and thirty-eight, they are bound to pay to mukaddams:

Provided that no such recovery shall be made from málik-makbúzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy Commissioner may alter channel through which málik-makbúzá pays revenue.

140. On the application of any málik-makbúzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-makbúzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government Treasury.

Effect of order for payment of revenue direct to Government.

When the Deputy Commissioner orders such payment to be made into the Government Treasury, such portion of the percentage fixed under section sixty-four as the Deputy Commissioner, subject to the control of the Chief Commissioner, may determine, shall be so paid, and the málik-makbúzá or other person shall pay the rest to the mukaddams on account of their fees and the other village-expenses.

Duties of mukaddams.

141. It shall be the duty of every mukaddam—

(*a*) to control and superintend the village-patwárí and village-watchmen; to report their deaths or absence from duty; to maintain them in the possession of any lands appertaining to their office; to recover and pay to them any cash allowances to which they may be entitled; and to take such steps as may be necessary to compel them to perform their duties;

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf ;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village ;

(*d*) to preserve such stations and marks erected in his village by Government-surveyors as may be made over to his care ;

(*e*) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition ;

(*f*) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled ;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village ;

(*h*) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section ; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*c*) in respect of such village, and for apportioning such charges among such persons ; and

(3) determining the officers to whom reports under this section shall be made.

Liabilities imposed by law on landholders to attach to mukaddams.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Provided that nothing herein contained shall discharge landholders, their managers or agents, or the like, from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

143. Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Chief Commissioner may make rules as to patwáris.

144. The Chief Commissioner may make rules—

(*a*) regulating the manner in which patwáris are to be selected ; prescribing the conditions under which they may be appointed ; and fixing the limits of their circles and the nature, mode and amount of their remuneration ;

(*b*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act ;

(*c*) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed :

Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall be compelled to pay as remuneration to patwáris a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessable on his land if it were liable to assessment.

Chief Commissioner may make rules for guidance of Deputy Commissioners in certain matters.

145. The Chief Commissioner may make rules for the guidance of Deputy Commissioners in dealing with cases where, at the time of making the settlement next before this Act comes into force, the maintenance of a patwári was made optional, and the persons settled with are unable to agree as to whether a patwári should be maintained, and for dealing with cases where no patwári is, under such option, maintained and the mukaddams or proprietors have made default in the performance of the duties of a patwári.

Such rules may empower the Deputy Commissioner, in the latter class of cases—

(*a*) to impose fines not exceeding fifty rupees on such mukaddams or proprietors, and therefrom to make provision for the temporary performance of the duties in respect of which they have made default ;

(*b*) to appoint patwáris in the villages of such proprietors, either for the term of the settlement or for any shorter term, and to fix the remuneration of such patwáris.

Nothing in the proviso to section one hundred and forty-four shall apply to patwáris so appointed.

Chief Commissioner may define duties of patwáris.

146. The Chief Commissioner may make rules prescribing the duties of patwáris—

(*a*) towards the Government ; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished ;

(*b*) towards the members of the village-community ; and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties.

Patwáris' papers to be public documents.

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

Patwáris to produce papers for inspection, and to allow copies to be made.

147. Patwáris shall produce at all reasonable times, for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

Existing officers confirmed.

148. All existing lambardárs, sub-lambardárs, mukaddams and patwáris shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Lambardárs' and other officers' dues recoverable as arrears.

149. Any sums which lambardárs, sub-lambardárs, mukaddams and patwáris are entitled to recover or demand under this chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Holders of sir-land in Sambalpúr to provide for remuneration of mukaddams.

150. In each village of the district of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation.

PART V.

CHAPTER XII.

MISCELLANEOUS.

Right to mines and quarries.

151. Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers, and the right to extract sap from all palmyra and cocoanut trees, shall be deemed to belong to Government; and the Government shall have all powers necessary for the proper enjoyment of such rights:

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

Exclusive jurisdiction of Revenue-authorities.

152. Except as otherwise hereinbefore provided,—

(*a*) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or Settlement officer is, by this Act, empowered to determine or dispose of; and in particular

Matters excepted from jurisdiction of Civil Courts.

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters:—

(1) any matters provided for in sections forty, forty-one, forty-two and eighty-nine, as to waste-lands:

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him:

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force;

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement;

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner;

(6) the amount of the allowance or rent fixed under section sixty-one or sixty-two:

(7) the redistribution according to established custom, by a Settlement-officer, of land comprised in a mahál:

(8) the formation of the record-of-rights,

the preparation, signing or attestation of any of the documents contained therein, or

the notification of settlement:

(9) any matters provided for or referred to in section seventy-three, seventy-four or one hundred and thirty as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land:

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue:

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue:

(12) corrections of entries or revisions of records under sections one hundred and twenty, one hundred and twenty-one and one hundred and twenty-two:

(13) claims to have a partition and apportionment made under section one hundred and thirty-six, and questions as to the distribution or apportionment under that section of the land or of the revenue of a mahál:

(14) claims to the office of patwárí, lambardár, sub-lambardár or mukaddam, or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof:

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

For what village-cesses suit lies.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village-cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section one hundred and thirty-two, clause (*h*).

154. Whenever, at any settlement made before this Act comes into force, waste-lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Limitation of claims for compensation in case of waste-land demarcated as property of Government.

155. No Revenue or Settlement officer, and no person employed in any Revenue or Settlement office, shall, except with the express permission of the Chief Commissioner,—

Restriction on Revenue and Settlement officers trading and holding land.

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed;

(*b*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866.

156. When any mahál is managed or let in farm under section fifty-seven or fifty-eight, or when either of the proclamations mentioned in sections ninety-eight and one hundred and three has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee; and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner.

Payment to proprietor in anticipation of due date.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of balances due by farmers.

158. All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Recovery of revenue due when Act comes into force;

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159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Past proceedings for collection of revenue legalized.

160. In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Commissioner may empower persons by name, or confer powers on classes.

161. The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Chief Commissioner may vary or cancel orders.

162. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

Chief Commissioner may make rules and attach penalty to breach thereof.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
Act XII of 1841.	For amending the Bengal Code in regard to sales of land for arrears of revenue.	So much as has not been repealed.
Act I of 1847	For the establishment and maintenance of boundary-marks in the North-Western Provinces of Bengal.	The whole.
Act XXXI of 1858.	To make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The whole.

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R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 21 OF 1880.

A Bill to empower the Government of Madras to alter the local limits of the Coroner's Jurisdiction, and for other purposes.

Preamble.

WHEREAS under the Coroners' Act, 1871, the local limits of the jurisdiction of the Coroner of Madras are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras;

and whereas it is expedient to empower the Governor of Fort St. George in Council to alter the local limits of the said Coroner's jurisdiction;

and whereas it is also expedient to correct an error in section nine of Madras Act No. VIII of 1867 (*an Act to incorporate the Police of the Town of Madras with the general Police of the Madras Presidency and for other purposes*) as amended by the Code of Criminal Procedure; It is hereby enacted as follows :—

Power to alter local limits of jurisdiction of Coroner of Madras.

1. The Governor of Fort St. George in Council may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *Fort St. George Gazette*, alter the local limits of the jurisdiction of the Coroner of Madras :

Provided that such limits shall not extend beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Sections 133 to 135 of Act X of 1872 to extend to area excluded from Coroner's jurisdiction.

2. When, in exercise of the power conferred by section one, any area within the local limits of the said ordinary original civil jurisdiction is excluded from the local limits of the Coroner's jurisdiction, sections 133 to 135 (both inclusive) of the Code of Criminal Procedure shall extend to such area while so excluded, and all functions assigned to a Magistrate by those sections shall be discharged by the Commissioner of Police.

New section substituted for section 9 of Madras Act VIII of 1867.

3. For section nine of the said Madras Act No. VIII of 1867, the following section shall be substituted :—

"9. The Town Police shall be governed by all the provisions of the Criminal Procedure Code, contained in sections 89, 91 to 103 (both inclusive), 108, 109, 110, 111, 112, 114, 116, 117 (first part), 118, 119, 120, 123, 124, 125, 127, 128, 129, 131, 136, 139, 140, 141, 142, 144, 147, chapter XII, sections 159, 161, 163 to 170 (both inclusive), 174 to 185 (both inclusive), chapter XXVII (except section 385), sections 415 to 420 (both inclusive), 480, so far as they are applicable :

Law to govern Town Police.

"Provided always, that the officer in charge of a Police-station shall not be required to bind over the prosecutor and witnesses as directed in section 123 of the said Code, if their immediate attendance can be procured without recognizances."

Act X of 1872, schedule V, in part repealed.

4. The portion of Schedule V of the Code of Criminal Procedure, under the heading "Acts of the Governor of Madras in Council," shall be read as if the letter and figure "s. 9" in the first column, and all the words and figures in the second and third columns opposite the said letter and figure, were omitted.

STATEMENT OF OBJECTS AND REASONS.

UNDER Act No. IV of 1871 (The Coroners' Act, 1871), the local limits of the jurisdiction of the Coroners in the towns of Calcutta, Madras and Bombay are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, respectively, no power to alter them being conferred. In Madras, these limits comprise twenty-seven square miles and include twenty-three agricultural villages. This area having of late years, owing to the increase in the number of inquests to be held, become too large for one Coroner, it is proposed that the Governor in Council should be empowered to restrict the local limits of the Coroner's jurisdiction by excluding from them the non-urban portion which differs but little from the adjoining mufassal district. To give effect to this proposal, the present Bill has been prepared. It empowers the Governor in Council, with the previous sanction of the Governor General in Council, to alter the local limits of the Coroner's jurisdiction, as may be from time to time convenient, provided that these limits are never extended beyond the present ones.

2. In the event of the powers conferred by the Bill being exercised and the local limits of the Coroner's jurisdiction restricted, the provisions of the Criminal Procedure Code relating to enquiries by the Police into unnatural and sudden deaths will (section 2) extend to the tract excluded from the jurisdiction of the Coroner, and the Commissioner of Police will discharge the functions of the Magistrate under those provisions.

3. The present opportunity has been taken to correct an error (the result of an oversight) in section 9 of the Madras Police Act (Madras Act No. VIII of 1867) as amended by the Code of Criminal Procedure.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 22 OF 1880.

A Bill to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows :—

Preamble.

1. This Act may be called "The Obstructions in fairways Act, 1881;"

Short title.

Commencement.

and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty, or by the Secretary of State for India in Council.

Local Government empowered to remove or destroy obstruction in fairway.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing-stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(*a*) cause such thing or any part thereof to be removed ; or,

(*b*) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

VII of ., s. 75.

Government entitled to expenses incurred in removing obstruction.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

VII of ., s. 75.

Dispute concerning such expenses.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

VII of ., s. 76.

Notice of removal to be given by Local Government.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

Things removed may, in certain cases, be sold.

Act VII of 1880, s. 77.

5. If after publishing such notification, such thing is unclaimed,

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

Proceeds how applied.

Act VII of 1880, s. 78.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Provided that he makes the claim within one year from the date of the sale.

"Vessel" to include tackle, cargo, &c.

40 & 41 Vic., c. 16, s. 6.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

Penalty for breach of such rules.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Saving of other powers possessed by Government.

40 & 41 Vic., c. 16, s. 8.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to empower the Government to remove obstructions to navigation which may exist in fairways situate in seas adjacent to British India, and to prohibit the creation of such obstructions for the future. The advantages of having such a law have been impressed upon the Government by certain recent cases. In one of these a question has been raised as to the power of the Government to remove the fishing stakes which are

annually placed during the fine season in the sea off the port of Bombay, and which, having recently been advanced into the approach to the harbour, are now a source of serious danger to vessels frequenting that port. In another case which related to the deposit of ballast by ship-masters, at the mouth of the Rangoon river, a practice which, if permitted, might cause serious impediment and danger to the navigation of the approaches to the port of Rangoon, the need for some further preventive powers than those which Government now possesses, has been made apparent.

There can be no doubt that it is extremely desirable that the powers of Government officers, and the procedure to be followed by them, in relation to matters of this nature, should be clearly defined, and as the Indian Statute-Book, as it now stands, does not deal adequately with the subject, the present Bill has been prepared. A precedent for such legislation will be found in the Imperial Statute 40 & 41 Vic., c. 16 (the Removal of Wrecks Act, 1877). The Bill, while following generally the lines of the statute, goes beyond it in two material respects. The power to remove obstructions conferred by it is not confined, as in the statute, to the case of obstructions caused by wrecks, but extends also to fishing stakes, ballast and any other thing which may form an obstruction or danger to navigation. The other point in which the Bill goes beyond the statute is that, in addition to giving power to remove existing obstructions, it enables the Government to prevent the wilful creation of obstructions in the future. With this object the Governor General in Council is empowered (section 7) to make rules to regulate or prohibit in any fairway the placing of fishing stakes, the casting of ballast, or the doing of any other act which will, in his opinion, cause or be likely to cause danger or obstruction to navigation.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 23 OF 1880.

A Bill to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).

WHEREAS it is expedient to amend Bengal Act No. IX of 1880 (the Cess Act, 1880); It is hereby enacted as follows :— Preamble.

1. In the said Act, after section sixty-four, the following sections shall be inserted, and shall be deemed to have been so inserted on and from the date on which such Act came into force. Amendment of Bengal Act No. IX of 1880.

"64A. All sums due to the holder of any estate or tenure under the provisions of this chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation : Holders of estates, &c., how to recover from holders of rent-free lands.

"Provided that, if any such objection as is mentioned in section 53, has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

"64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer." Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

STATEMENT OF OBJECTS AND REASONS.

WHEN the Bill, which has since become Bengal Act No. IX of 1880 (The Cess Act, 1880), was submitted, for the first time, by the Government of Bengal for the assent of the Governor General, His Excellency, though approving of the policy of the Bill, was unable to give his assent, as he was advised that two of its sections were *ultra vires* of the Bengal Legislative Council. Section 65 was *ultra vires*, inasmuch as it extended to suits the parties to which were not landholder and tenant, the special procedure which the provincial legislature is, by section 4 of the Code of Civil Procedure, permitted to prescribe only in suits between landholder and tenant; and section 66 also appeared to be *ultra vires*, as it was inconsistent with the same Code, in enacting that a decree might be executed against a person who was neither a party or privy.

Though, however, feeling compelled for these reasons to withhold his assent from the Bill in its then form, His Excellency intimated to the Government of Bengal that he would be willing to give his assent to the measure if it was re-enacted with the omission of the provisions to which exception had been taken, and further, that if the Lieutenant-Governor should think these provisions were indispensable, a Bill would be introduced into the Council of the Governor General incorporating them, and drawn so as to come in force simultaneously with the Bengal Bill when re-enacted.

In accordance with this intimation, the Government of Bengal re-submitted the Bill with the omission of the objectionable provisions, and His Excellency has given his assent to the measure as thus amended. But, as the Local Government has expressed at the same time a strong opinion that the omitted sections are essential to their scheme of legislation, the present Bill has been prepared in fulfilment of the promise made by His Excellency. It simply re-enacts the provisions to which exception was taken, and incorporates them in the Bengal Act, by inserting them retrospectively in that enactment from the date on which it became law.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 21 OF 1880.

A Bill to empower the Government of Madras to alter the local limits of the Coroner's Jurisdiction, and for other purposes.

Preamble.

WHEREAS under the Coroners' Act, 1871, the local limits of the jurisdiction of the Coroner of Madras are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras ;

and whereas it is expedient to empower the Governor of Fort St. George in Council to alter the local limits of the said Coroner's jurisdiction ;

and whereas it is also expedient to correct an error in section nine of Madras Act No. VIII of 1867 (*an Act to incorporate the Police of the Town of Madras with the general Police of the Madras Presidency and for other purposes*) as amended by the Code of Criminal Procedure ; It is hereby enacted as follows :—

Power to alter local limits of jurisdiction of Coroner of Madras.

1. The Governor of Fort St. George in Council may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *Fort St. George Gazette*, alter the local limits of the jurisdiction of the Coroner of Madras :

Provided that such limits shall not extend beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Sections 133 to 135 of Act X of 1872 to extend to area excluded from Coroner's jurisdiction.

2. When, in exercise of the power conferred by section one, any area within the local limits of the said ordinary original civil jurisdiction is excluded from the local limits of the Coroner's jurisdiction, sections 133 to 135 (both inclusive) of the Code of Criminal Procedure shall extend to such area while so excluded, and all functions assigned to a Magistrate by those sections shall be discharged by the Commissioner of Police.

New section substituted for section 9 of Madras Act VIII of 1867.

3. For section nine of the said Madras Act No. VIII of 1867, the following section shall be substituted :—

Law to govern Town Police.

"9. The Town Police shall be governed by all the provisions of the Criminal Procedure Code, contained in sections 89, 91 to 103 (both inclusive), 108, 109, 110, 111, 112, 114, 116, 117 (first part), 118, 119, 120, 123, 124, 125, 127, 128, 129, 131, 136, 139, 140, 141, 142, 144, 147, chapter XII, sections 159, 161, 163 to 170 (both inclusive), 174 to 185 (both inclusive), chapter XXVII (except section 385), sections 415 to 420 (both inclusive), 480, so far as they are applicable :

"Provided always, that the officer in charge of a Police-station shall not be required to bind over the prosecutor and witnesses as directed in section 123 of the said Code, if their immediate attendance can be procured without recognizances."

Act X of 1872, schedule V, in part repealed.

4. The portion of Schedule V of the Code of Criminal Procedure, under the heading "Acts of the Governor of Madras in Council," shall be read as if the letter and figure "s. 9" in the first column, and all the words and figures in the second and third columns opposite the said letter and figure, were omitted.

STATEMENT OF OBJECTS AND REASONS.

UNDER Act No. IV of 1871 (The Coroners' Act, 1871), the local limits of the jurisdiction of the Coroners in the towns of Calcutta, Madras and Bombay are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, respectively, no power to alter them being conferred. In Madras, these limits comprise twenty-seven square miles and include twenty-three agricultural villages. This area having of late years, owing to the increase in the number of inquests to be held, become too large for one Coroner, it is proposed that the Governor in Council should be empowered to restrict the local limits of the Coroner's jurisdiction by excluding from them the non-urban portion which differs but little from the adjoining mufassal district. To give effect to this proposal, the present Bill has been prepared. It empowers the Governor in Council, with the previous sanction of the Governor General in Council, to alter the local limits of the Coroner's jurisdiction, as may be from time to time convenient, provided that these limits are never extended beyond the present ones.

2. In the event of the powers conferred by the Bill being exercised and the local limits of the Coroner's jurisdiction restricted, the provisions of the Criminal Procedure Code relating to enquiries by the Police into unnatural and sudden deaths will (section 2) extend to the tract excluded from the jurisdiction of the Coroner, and the Commissioner of Police will discharge the functions of the Magistrate under those provisions.

3. The present opportunity has been taken to correct an error (the result of an oversight) in section 9 of the Madras Police Act (Madras Act No. VIII of 1867) as amended by the Code of Criminal Procedure.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 22 OF 1880.

A Bill to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows :—

Preamble.

1. This Act may be called "The Obstructions in fairways Act, 1881;" and it shall come into force at once.

Short title.

Commencement.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty, or by the Secretary of State for India in Council.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

Local Government empowered to remove or destroy obstruction in fairway.

(*a*) cause such thing or any part thereof to be removed; or,

(*b*) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

Act VII of 1880, s. 75.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Government entitled to expenses incurred in removing obstruction.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

Act VII of 1880, s. 75.

Dispute concerning such expenses.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

Act VII of 1880, s. 76.

Notice of removal to be given by Local Government.

5. If after publishing such notification, such thing is unclaimed,

Act VII of 1880, s. 77.

Things removed may, in certain cases, be sold.

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Act VII of 1880, s. 78.

Proceeds how applied.

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

40 & 41 Vic., c. 16, s. 6.

"Vessel" to include tackle, cargo, &c.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting or

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

Penalty for breach of such rules.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Saving of other powers possessed by Government.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf. 40 & 41 Vic. c. 16, s. 8.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to empower the Government to remove obstructions to navigation which may exist in fairways situate in seas adjacent to British India, and to prohibit the creation of such obstructions for the future. The advantages of having such a law have been impressed upon the Government by certain recent cases. In one of these a question has been raised as to the power of the Government to remove the fishing stakes which are annually placed during the fine season in the sea off the port of Bombay, and which, having recently been advanced into the approach to the harbour, are now a source of serious danger to vessels frequenting that port. In another case which related to the deposit of ballast by ship-masters, at the mouth of the Rangoon river, a practice which, if permitted, might cause serious impediment and danger to the navigation of the approaches to the port of Rangoon, the need for some further preventive powers than those which Government now possesses, has been made apparent.

There can be no doubt that it is extremely desirable that the powers of Government officers, and the procedure to be followed by them, in relation to matters of this nature, should be clearly defined, and as the Indian Statute-Book, as it now stands, does not deal adequately with the subject, the present Bill has been prepared. A precedent for such legislation will be found in the Imperial Statute 40 & 41 Vic., c. 16 (the Removal of Wrecks Act, 1877). The Bill, while following generally the lines of the statute, goes beyond it in two material respects. The power to remove obstructions conferred by it is not confined, as in the statute, to the case of obstructions caused by wrecks, but extends also to fishing stakes, ballast and any other thing which may form an obstruction or danger to navigation. The other point in which the Bill goes beyond the statute is that, in addition to giving power to remove existing obstructions, it enables the Government to prevent the wilful creation of obstructions in the future. With this object the Governor General in Council is empowered (section 7) to make rules to regulate or prohibit in any fairway the placing of fishing stakes, the casting of ballast, or the doing of any other act which will, in his opinion, cause or be likely to cause danger or obstruction to navigation.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 23 OF 1880.

A Bill to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).

Preamble.

WHEREAS it is expedient to amend Bengal Act No. IX of 1880 (the Cess Act, 1880); It is hereby enacted as follows :—

Amendment of Bengal Act No. IX of 1880.

1. In the said Act, after section sixty-four, the following sections shall be inserted, and shall be deemed to have been so inserted on and from the date on which such Act came into force.

Holders of estates, &c., how to recover from holders of rent-free lands.

"64A. All sums due to the holder of any estate or tenure under the provisions of this chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation :

"Provided that, if any such objection as is mentioned in section 53, has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

Owner, holder or occupier of rent-free lands may be sued.

Decree against occupier tantamount to decree against owner.

"64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer."

STATEMENT OF OBJECTS AND REASONS.

WHEN the Bill, which has since become Bengal Act No. IX of 1880 (The Cess Act, 1880), was submitted, for the first time, by the Government of Bengal for the assent of the Governor General, His Excellency, though approving of the policy of the Bill, was unable to give his assent, as he was advised that two of its sections were *ultra vires* of the Bengal Legislative Council. Section 65 was *ultra vires*, inasmuch as it extended to suits the parties to which were not landholder and tenant, the special procedure which the provincial legislature is, by section 4 of the Code of Civil Procedure, permitted to prescribe only in suits between landholder and tenant; and section 66 also appeared to be *ultra vires*, as it was inconsistent with the same Code, in enacting that a decree might be executed against a person who was neither a party or privy.

Though, however, feeling compelled for these reasons to withhold his assent from the Bill in its then form, His Excellency intimated to the Government of Bengal that he would be willing to give his assent to the measure if it was re-enacted with the omission of the provisions to which exception had been taken, and further, that if the Lieutenant-Governor should think these provisions were indispensable, a Bill would be introduced into the Council of the Governor General incorporating them, and drawn so as to come in force simultaneously with the Bengal Bill when re-enacted.

In accordance with this intimation, the Government of Bengal re-submitted the Bill with the omission of the objectionable provisions, and His Excellency has given his assent to the measure as thus amended. But, as the Local Government has expressed at the same time a strong opinion that the omitted sections are essential to their scheme of legislation, the present Bill has been prepared in fulfilment of the promise made by His Excellency. It simply re-enacts the provisions to which exception was taken, and incorporates them in the Bengal Act, by inserting them retrospectively in that enactment from the date on which it became law.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th January, 1881, and was referred to a Select Committee :—

No. 1 OF 1881.

THE BURMA FOREST BILL, 1881.

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A Bill to amend the law relating to Forests, Forest-produce, and the duty leviable on Timber in British Burma.

Preamble.

WHEREAS it is expedient to amend the law relating to forests, forest-produce, and the duty leviable on timber in British Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short-title.

1. This Act may be called "The Burma Forest Act, 1881:"

Local extent.

It extends to all the territories for the time being administered by the Chief Commissioner of British Burma, provided that the Chief Commissioner may, from time to time, by notification in the local official Gazette, exempt any place from its operation; but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption; and

Commencement.

it shall come into force on the first day of May, 1881.

Repeal of enactments.

2. On and from that day the enactments mentioned in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

3. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,—

Interpretation-clause.

"Forest-officer" means all persons appointed by name or as holding an office by or under the orders of the Chief Commissioner to be—

"Forest-officer:"

Conservators, Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, Forest Guards or Forest-officers, or to discharge any function of a Forest-officer under this Act or the rules made hereunder:

"Forest-officer specially empowered" means in any provision of this Act any person whom the Chief Commissioner, or any officer empowered by the Chief Commissioner in this behalf, may, from time to time, appoint by name, or as holding an office, to discharge the functions of a Forest-officer under such provision:

"Forest-officer specially empowered:"

"tree" includes bamboos, stumps and brushwood:

"tree:"

"timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:

"timber:"

"forest-produce" includes the following when found in, or brought from, a forest (that is to say):—

"forest-produce."

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac and charcoal;

"forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"forest-offence:"

"cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"cattle:"

"river" includes also streams, canals, creeks and other channels, natural or artificial:

"river:"

"Magistrate" means a Magistrate of the first or second class, or (when specially empowered by the Chief Commissioner to try forest-offences) a Magistrate of the third class.

"Magistrate."

4. Nothing in the Burma Land and Revenue Act, 1876, shall be deemed to affect or ever to have affected any right by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another person or to the Government or anything growing in or attached to or subsisting upon the land of another person or of the Government; and

Saving of rights of profit from the Burma Land and Revenue Act, 1876.

nothing in this Act shall be deemed to affect the provisions of sections twenty and twenty-one of the Burma Land and Revenue Act, 1876.

CHAPTER II.

OF RESERVED FORESTS.

5. The Chief Commissioner may from time to time constitute any land over which no person has a right created by any grant or lease made by or in behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a reserved forest in manner hereinafter provided. Cf. Act VII of 1878, s. 3.

Power to reserve forests.

6. Whenever it is proposed to constitute any land a reserved forest, the Chief Commissioner may publish a notification in the local official Gazette— Cf. Act VII of 1878, s. 4.

Notification by Chief Commissioner.

(*a*) specifying the limits of such land or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) declaring that it is proposed to constitute such land a reserved forest;

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, and to deal with the same as provided in this chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person not holding any forest-office except that of Forest-Settlement-officer; but a Forest-officer may be appointed in subordination to the Forest-Settlement-officer to assist him in the inquiry prescribed by this chapter. New.

7. When a notification has been issued under section six, the Forest-Settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation— Cf. Act VII of 1878, s. 6.

Proclamation by Forest-Settlement-officer.

(*a*) specifying the limits of the proposed forest, or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) setting forth the provisions of section eight; New.

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right mentioned in section six either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right.

8. During the interval between the publication of such proclamation and the date fixed by the notification under section eighteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right was vested when the proclamation was published; and on such land, except as hereinafter provided, no new house shall be built or plantation formed, and no fresh clearings for cultivation or for any other purpose shall be made and no trees Cf. Act VII of 1878, s. 5.

Bar of accrual of forest-rights.

Prohibition of building, clearing, &c.

shall be cut for the purpose of trade or manufacture.

New. Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-Settlement-officer, or any clearings made for toungya cultivation by tribes or families in the habit of practising such cultivation on such land: provided that such clearings are not in contravention of any rule made under section twenty-one of the Burma Land and Revenue Act, 1876, and for the time being in force.

Cf. Act VII of 1878, s. 7. The words 'at some convenient place' omitted.

Inquiry by Forest-Settlement-officer.

9. The Forest-Settlement-officer shall take down in writing all statements made under section seven, and shall inquire into all claims preferred under that section, and the existence of any rights mentioned in section six and not claimed under section seven.

New. The Forest-Settlement-officer shall at the same time consider and record any objection to any claim which the Forest-officer (if any), appointed to assist him under section six, may make.

Cf. Act VII of 1878, s. 8.

Powers of Forest-Settlement-officer.

10. For the purposes of such inquiry, the Forest-Settlement-officer may exercise the following powers (that is to say):—

Wording changed. (*a*) the powers of a Demarcation-officer under The Burma Boundaries Act, 1880; and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure for compelling the attendance of witnesses and the production of documents.

Act VII of 1878, s. 9.

Extinction of rights not claimed.

11. Rights in respect of which no claim has been preferred under section seven, and of the existence of which no knowledge has been acquired by enquiry under section nine, shall be extinguished, unless, before the notification under section eighteen is published, the person claiming them satisfies the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section seven.

Cf. Act VII of 1878, s. 10.

Power to acquire land over which right is claimed.

12. In the case of a claim to a right in or over any land other than the following:—

(*a*) right of way,
(*b*) right to a water-course,
(*c*) right of pasture,
(*d*) right to forest-produce,

the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the Forest-Settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(i) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of way, water-course, pasture or to forest-produce.

13. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), (*c*) and (*d*) of section twelve, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Cf. Act V of 1878, ss. 11, 12 and 1 (That section relates only to the rights mentioned in (*c*) and (*d*.)

Provision for rights of pasture or to forest-produce admitted.

14. When the Forest-Settlement-officer admits wholly or in part any claim to a right of the kind specified in clauses (*c*) and (*d*) of section twelve, he shall, if practicable, by an order in writing, either continue such right to the claimant, or alter the limits of the proposed reserved forest, so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient, for the purposes of the claimant; and permit him to exercise his right on such land.

Cf. Act V of 1878, s. 14 and

The order passed under this section shall record—

(*a*) the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the season during which, such pasture is permitted; or

(*b*) the quantity of timber and other forest-produce which the claimant is authorized to take or receive, the local limits within which, and the season during which, the taking of such timber or forest-produce is permitted; and

(*c*) when the exercise of such right is claimed in respect of any land or buildings, the designation, position and area of such land, and the designation and position of such buildings; and

(*d*) such other particulars as may be required in order to specify the nature of the right which is continued.

New.

Commutation of such rights.

15. Whenever any right of the kind specified in section twelve, clauses (*c*) and (*d*), and admitted under section thirteen, is not provided for in one of the ways prescribed in section fourteen, the Forest-Settlement-officer shall, subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf, commute such right, by paying a sum of money in lieu thereof, or with the consent of the claimant, by the grant of land or in such other manner as such officer thinks fit;

Cf. Act V 1878, ss. and 13.

For the purpose of granting land under this section, the Forest-Settlement-officer shall be deemed to be an Assistant Commissioner in charge of a sub-division.

Appeal from order passed under foregoing sections.

16. Any person who has made a claim under this chapter may, within three months from the date of any order passed on such claim by the Forest-Settlement-officer under section twelve, thirteen, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Chief Commissioner may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Cf. Act 1878, s

Provis ted.

Act VII of 1878, s. 17.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the officer competent to hear the same.

Appeal under section 16.

Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue, and the order passed thereon by such officer shall be final:

Hearing of appeals.

Provided that every order of a Forest-Settlement-officer, and every order passed on appeal under this section, shall be subject to revision by the Chief Commissioner.

Orders of Forest-Settlement-officer, and orders on appeal, subject to Chief Commissioner's confirmation.

Act VII of 1878, s. 19.

18. When the following events have occurred (namely)—

Notification declaring forest reserved.

(*a*) the period fixed under section seven for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer; and

(*b*) if such claims have been made, the period limited by section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section twelve, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Chief Commissioner may publish a notification in the local official Gazette, specifying, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Act VII 1878, s. 20.

19. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in the manner prescribed for the proclamation under section seven.

Publication of translation of such notification in neighbourhood of forest.

Act VII of 1878, s. 22.

20. No right of any description shall be acquired in or over a reserved forest, except by succession, or under a grant or contract in writing made by, or on behalf of, the Government, or some person in whom such right was vested when the notification under section eighteen was published.

No right acquired over reserved forest except as here provided.

Act VII of 1878, s. 23.

21. Notwithstanding anything herein contained, no right continued or created under section fourteen shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner: provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house without such sanction.

Rights not to be alienated without sanction.

No timber or other forest-produce obtained in exercise of any right so continued or created shall be sold or bartered except to such extent as may be permitted by the Chief Commissioner.

Cf. Act VII of 1878, s. 24.

22. A Forest-officer may from time to time, with the previous sanction of the Chief Commissioner or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest: provided that a substitute for the way or water-course so stopped, which the Chief Commissioner deems to be reasonably convenient, already exists, or has been provided or constructed by such Forest-officer in lieu thereof.

Power to stop ways and water-courses in reserved forest.

23. Any person who in a reserved forest—

Penalties for trespass or damage in reserved forests.

Cf. Act VII of 1878, s. 26.

(*a*) trespasses, or pastures cattle, or permits cattle to trespass;

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*c*) in contravention of any rules which the Chief Commissioner may from time to time make in this behalf, hunts, shoots, fishes, poisons water, or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or when the damage resulting from his offence amounts to more than twenty-five rupees to double the amount of such damage.

Cf. Act VII of 1878, s. 25.

24. Any person who—

Acts prohibited in such forests.

(*a*) makes any fresh clearing prohibited by section eight, or

(*b*) sets fire to a reserved forest, or kindles any fire in such manner as to endanger the same,

or who, in a reserved forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered may from time to time notify in this behalf;

(*d*) fells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages the same;

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce;

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or when the damage resulting from his offence amounts to more than two hundred and fifty rupees to double the amount of such damage.

Act VII of 1878, s. 25.

25. Nothing in section twenty-three or section twenty-four shall be deemed to prohibit (*a*) any act done by permission in writing of a Forest-officer, specially empowered or under any rule made by the Chief Commissioner in that behalf; or (*b*) the exercise of any right continued or created under section fourteen or created by grant or contract in the manner described in section twenty.

Acts excepted from prohibition contained in sections 23 and 24.

Cf. Act VII of 1878, s. 26.

26. Whenever fire is caused wilfully or by gross negligence in a reserved forest, by any person having rights in such forest or by any person in his employ-

Penalty for offences committed by persons having rights in reserved forests.

ment, or whenever any person having rights in such forest contravenes the provisions of section twenty-one, the Chief Commissioner may (notwithstanding that a penalty has been inflicted under section twenty-four) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be extinguished or suspended for such period as he thinks fit.

Act VII of 1878, s. 26.

27. The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

Power to declare forest no longer reserved.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

New.

28. Any forest which has been declared a reserved forest under any rules in force previous to the passing of this Act shall be deemed to have been reserved under this Act, all questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared under this Act, and all the provisions of this Act relating to reserved forests shall apply to such forest.

Forests reserved under former rules.

CHAPTER III.

OF VILLAGE-FORESTS.

New.

29. The Chief Commissioner may from time to time, by notification in the local official Gazette, constitute any land over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a village-forest for the benefit of any village community or group of village communities, and may by a like notification cancel any such notification:

Constitution of village-forests.

Provided that no such notification shall be deemed to affect any teak or other trees, which the Chief Commissioner may previous to the issue of such notification have declared to be reserved.

Every such notification shall specify definitely, according to boundary-marks erected or otherwise, the limits of such village-forest.

Cf. Act VII of 1878, s. 27, para. 2.

30. The Chief Commissioner may from time to time make rules for regulating the management of village-forests, prescribing the conditions under which the communities for the benefit of which such forests are constituted may be provided with timber or other forest-produce, or with pasture and their duties in respect of the protection and improvement of such forest.

Power to make rules for village-forests.

The Chief Commissioner may, by such rules, declare any of the provisions of this Act relating to the management, protection and improvement of reserved forests to be applicable to village-forests.

New.

31. Nothing in this chapter shall be deemed to affect any existing rights of individuals or communities in or over any land constituted a village-forest:

Saving of private rights.

Provided that the Chief Commissioner may in any case inquire into and determine the existence, nature and extent of any such rights and deal with the same in the manner provided in Chapter II of this Act for reserved forests.

Power to inquire into and deal with such rights.

CHAPTER IV.

OF THE PROTECTION OF FORESTS ON GOVERNMENT LANDS NOT INCLUDED IN RESERVED OR VILLAGE-FORESTS.

32. All teak trees standing on land to which the second part of the Burma Land and Revenue Act, 1876, applies, and over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of that Act, shall be reserved, and the Chief Commissioner may from time to time, by notification in the local official Gazette, declare any other trees or class of trees standing on such land to be reserved from a date fixed by such notification, and may alter or cancel any such notification.

Reserved trees.

33. Except as provided by rules made by the Chief Commissioner in this behalf, or with the permission in writing of a Forest-officer specially empowered, no reserved tree may be cut, marked, lopped, girdled or injured by fire or otherwise.

Protection of reserved trees.

Whoever cuts, marks, lops, girdles or injures by fire or otherwise any reserved tree in contravention of this section, shall be punished with fine which may extend to twenty rupees, or when the damage resulting from his offence amounts to more than ten rupees to double the amount of such damage.

34. The Chief Commissioner may from time to time make rules relating to the forest on the land referred to in section thirty-two.

Cf. Act VII 1878, s. 31.

Power to make rules generally.

Such rules may—

(*a*) prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*b*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce;

(*c*) regulate or prohibit the quarrying of stone or the burning of lime or charcoal;

(*d*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such pasturing;

(*e*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares; and

(*f*) regulate the sale or free grant of timber or other forest-produce.

The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Penalties for acts in contravention of rules.

35. Nothing in this chapter or in any rule made under this chapter shall be deemed to prohibit any act done with the permission in writing of a Forest-officer specially empowered, or in the exercise of any right.

Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE DUTY ON TIMBER.

Act VII of 1878, s. 39.

36. The Chief Commissioner may levy a duty, in such manner, at such places, and at such rates as he may from time to time prescribe by notification in the local official Gazette, on all timber which is brought into British Burma from any place beyond the frontier of British Burma.

Power to impose duty on timber.

In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, from time to time fix, by like notification, the value on which such duty shall be assessed.

Power to fix value for *ad valorem* duty.

37. On all logs cut within the limits of the Attaran and Pandau Forests and floated down the Attaran and Salween rivers, duty shall be levied at the following rates, that is to say—

Duty on certain timber floated down the Salween and Attaran.

On logs floated down the Attaran river:

	Rs.	A.	P.	
Above five feet in girth	4	0	0	per log.
Below „ „	2	0	0	„
Stem pieces	0	9	0	„
Ship crooks	0	4	0	„
Boat „	0	1	0	„
Small „	0	0	6	„
„ pieces	0	2	0	„

On logs floated down the Salween river:

	Rs.	A.	P.	
Above five feet in girth	2	12	0	per log.
Below „ „	1	6	0	„
Stem pieces	0	9	0	„
Ship crooks	0	4	0	„
Boat „	0	1	0	„
Small „	0	0	6	„
„ pieces	0	2	0	„

38. The Chief Commissioner may exempt any timber from duty, and may revoke such exemption.

Power to exempt timber from duty.

CHAPTER VI.

OF THE CONTROL OF TIMBER IN TRANSIT.

Act VII of 1878, s. 41. Certain provisions omitted.

39. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber in transit by land or water, is vested in the Chief Commissioner, and he may from time to time make rules to regulate the transit of all timber:

Power to make rules to regulate transit of timber.

Such rules may (among other matters)—

(a) prescribe the routes by which alone timber may be imported into, exported from, or moved within, British Burma;

(b) prohibit the import and export or moving of such timber without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes and for the payment of fees therefor;

(d) prohibit the loosening of timber formed into a raft or the setting adrift of any raft, by any person not the owner of such timber or raft, or not acting on behalf of the owner, or of Government;

Cl. (d).

(e) provide for the stoppage, reporting, examination and marking of timber in transit in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

Cl. (e). 'stations' substituted for 'depôt.'

(f) provide for the establishment and regulation of stations to which such timber shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such mark may be affixed to it; and the conditions under which such timber shall be brought to, stored at, and removed from, such station;

New.

(g) authorize the transport of timber the property of Government across any land which is not the property of Government, and regulate the compensation to be paid for any damage done by the transport of such timber;

Cl. (f).

(h) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be obstructed;

Cl. (g).

(i) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction.

Cl. (h).

(j) prohibit absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

'supermarking of timber' new.

(k) regulate the use of property-marks for timber, and the registration of such marks; lay down the rules under which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

Cl. (i). With additions.

Nothing in this section shall be held to affect any private rights in immoveable property situate on the banks of rivers.

New.

40. The Chief Commissioner may by such rules prescribe as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Cf. Act VII of 1878, s. 42.

Penalties for breach of rules made under section 39.

In cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalties so prescribed.

41. The Government shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a rule made under section thirty-nine, or while detained elsewhere for the purposes of this Act; and no Forest-

Cf. Act VII of 1878, s. 43. 'station' substituted for 'depôt.'

Government and Forest-officers not liable for damage to timber at station.

officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Act VII of 1878, s. 44.

All persons bound to aid in case of accident at station.

42. In case of any accident or emergency involving danger to any property at any such station, every person employed at such station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Act VII of 1878, s. 45

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

43. All timber found adrift, beached, stranded or sunk;

all timber bearing marks which have not been registered under rules made under section thirty-nine, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and,

in such areas as the Chief Commissioner directs, all unmarked timber,

shall be deemed to be the property of Government unless and until any person establishes his right thereto as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section forty-nine, and may be brought to such stations as a Forest-officer specially empowered may from time to time notify as stations for the reception of drift-timber.

The words 'by Notification in local official Gazette' omitted.

The Chief Commissioner may exempt any class of timber from the provisions of this section, and withdraw such exemption.

Cl. Act VII of 1878, s. 46.

Notice to claimants of drift-timber.

44. Public notice shall from time to time be given by a Forest-officer specially empowered, of timber collected under section forty-three. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

'One month' substituted for 'two months.'

Act VII of 1878, s. 47.

Procedure on claim preferred to such timber.

45. When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Words 'Criminal or Revenue' omitted before 'Court.'

Act VII of 1878, s. 48.

Disposal of unclaimed timber.

46. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-four, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section forty-five, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section forty-five, in such other person, free from all incumbrances.

Act VII of 1878, s. 49.

Government and its officers not liable for damage to such timber.

47. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-three.

Act VII of 1878, s. 50.

Payments to be made by claimant before timber is delivered to him.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section forty-nine.

Act VII of 1878, s. 51.

Power to make rules and prescribe penalties.

49. The Chief Commissioner may from time to time make rules to regulate the following matters (namely):—

(*a*) the salving, collection and disposal of all timber mentioned in section forty-three;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposing of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Chief Commissioner may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Cl. Act VII of 1878, s. 52.

Seizure of property liable to confiscation.

50. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report

of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

...ange.

Provided that when no property is seized except the forest-produce with respect to which such offence is believed to have been committed and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

...Act VII of ...78, s. 53. ...ght chan...

Procedure thereupon.

51. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the appearance and trial of the accused and the disposal of the property according to law.

...Act VII of ...78, s. 54. ...ords 'which ...not the pro... ...rty of Gov... ...rnment' omit... ...d. ...e sec. 56.

Forest-produce, tools, &c., when liable to confiscation.

52. When any person is convicted of a forest-offence all timber or forest-produce in respect of which such offence has been committed, and all tools, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

... VII of ...78, s. 55.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

53. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken charge of by a Forest-officer specially empowered; and in any other case may be disposed of in such manner as the Court may order.

...Act VII of ...78, s. 56. ...ht ...ges.

Procedure when offender not known or cannot be found.

54. When the offender is not known or cannot be found, the Magistrate may, on application in that behalf, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by a Forest-officer specially empowered, or to be made over to such Forest-officer or to any other person whom he deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate may cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or he may publish such notice in any way which he thinks fit.

... VII of ... s. 57.

Procedure as to perishable property seized under section 50.

55. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

...Act VII of ... s. 58. ...right ...ubmit... ...ppeal ...ay.

Appeal from orders under sections 52, 53 and 54.

56. Any person claiming to be interested in property seized under section fifty may, within one month from the date of any order passed under section fifty-two, fifty-three or fifty-four, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government.

57. When an order for the confiscation of any property has been passed under section fifty-two or fifty-four, as the case may be, and the period limited by section fifty-six for presenting an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances. Act VII of 1878, s. 59.

Saving of power to release property seized.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section fifty and the withdrawal of any proceedings instituted in respect of such property. Cf. Act VII of 1878, s. 60. The words 'and the withdrawal of any proceedings instituted' added.

Punishment for wrongful seizure.

59. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Cf. Act VII of 1878, s. 61.

Any fine so imposed, or any portion thereof, may be given as compensation to the person aggrieved. Last sentence new.

Penalty for counterfeiting or defacing marks in trees and timber and for altering boundary-marks.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code— Cf. Act VII of 1878, s. 62. Slight change.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(*b*) unlawfully affixes a mark used by Forest-officers; or New.

(*c*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

61. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Cf. Act VII of 1878, s. 63.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case. Third para. of s. 63 of Indian Forest Act omitted.

Act VII of 1878, s. 64.

62. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to prevent commission of offence.

Sec. 65 of Indian Forest Act omitted. Act VII of 1878, s. 66.

63. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act:

Operation of other laws not barred.

Provided that no person shall be punished twice for the same offence.

Cf. Act VII of 1878, s. 67. Slight change.

64. Any Forest-officer specially empowered may accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section fifty-nine or section sixty a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

Power to compound offences.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

Act VII of 1878, s. 65.

65. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that forest-produce belongs to Government.

CHAPTER IX.

CATTLE-TRESPASS.

Act VII of 1878, s. 69.

66. Cattle trespassing in a reserved forest or a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

Cattle-trespass Act, 1871, to apply.

Act VII of 1878, s. 70.

67. The Chief Commissioner may from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section sixty-six of this Act, such fines as he thinks fit, but not exceeding the following (that is to say):—

Power to alter fines fixed by that Act.

'Camel' omitted.

	Rs.	A.
For each elephant... ...	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer ...	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	0	8

CHAPTER X.

OF FOREST-OFFICERS.

Act VII 1878, s. 71.

68. The Chief Commissioner may invest any Forest-officer by name, or as holding an office, with the following powers (that is to say):—

Chief Commissioner may invest Forest-officers with certain powers.

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure;

(*d*) power to hold enquiries into forest-offences, and in the course of such enquiries to receive and record evidence.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate: provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333 or section 334 of the Code of Criminal Procedure.

Last part of proviso new.

Act VII of 1878, s. 72.

69. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Forest-officers deemed public servants.

Cf. Act VII 1878, s. 73. The words 'criminal action' new.

70. No suit or criminal prosecution shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

Act VII of 1878, s. 74.

71. Except with the permission in writing of the Chief Commissioner, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or foreign territory.

Forest-officers not to trade.

CHAPTER XI.

MISCELLANEOUS.

Cf. Act VII 1878, s. 75.

72. The Chief Commissioner may from time to time make rules consistent with this Act—

Additional powers to make rules.

(*a*) to prescribe and limit the powers and duties of any Forest-officer;

(*b*) to regulate the powers and proceedings of Forest-Settlement-officers; New.

(*c*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act; and Cl. (*c*) of s. of I. F. Act omitted.

(*d*) generally to carry out the provisions of this Act. Sec. 76 of F. Act omitted.

Cf. Act VII 1878, s. 77.

73. All rules made by the Chief Commissioner under this Act shall be published in the local official Gazette, and shall thereupon have the force of law.

Rules when to have force of law.

Second part omitted.

Act VII of 1878, s. 78.

74. Every person who exercises any right in a reserved forest or a village-forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

Persons bound to assist Forest-officer and Police-officer.

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-officer demanding his aid

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

VII of 8, s. 81.

Recovery of money due to Government.

75. All money payable to the Government under this Act, or under any rule made hereunder, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

VII of s. 82.

Lien on forest-produce for such money.

76. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered and retained by him until such amount has been paid.

Power to sell such produce.

If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Act VII of 1878, s. 83.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

77. Whenever it appears to the Chief Commissioner that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

SCHEDULE.

(*See section 1.*)

ENACTMENTS REPEALED.

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII of 1865 ...	An Act to give effect to rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII of 1869 ...	An Act to give validity to certain rules relating to forests in British Burma.	The whole.
Act XIII of 1873	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874.	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.

STATEMENT OF OBJECTS AND REASONS.

1. The necessity for placing forest-legislation in British Burma upon a satisfactory footing has been felt for a considerable time. The present state of the law is as follows:—

The Government Forests Act (Act No. VII of 1865) is in force, but it does not provide for all requirements. That Act gave power to make rules, having the force of law, for the management and preservation of the Government forests and for the control of the timber floated down rivers. Accordingly in August, 1865, rules for the administration of forests in British Burma were promulgated. These rules, though purporting to have been made under the Government Forest Act, were not covered by its provisions, and accordingly they were legalized by Act No. VII of 1869.

In 1873 it was deemed advisable to amend and consolidate the law relating to timber floated down the rivers of Burma. Accordingly the Burma Timber Act (*No. XIII of 1873*) was passed. This Act repealed Act No. VII of 1869 and the rules legalized by that Act as far as they related to duty on timber floated down the rivers of British Burma.

The rules of August, 1865, related only to a portion of the Government forests, as defined in the rules, and it became necessary to provide by another set of rules for the administration of the forests thus excluded. This was done by rules made under Act No. VII of 1865, which were promulgated in Burma in March, 1876, together with a notification defining the areas to which they were applicable.

Thus the administration of the Government forests in Burma and the management of the timber floated down its rivers is governed by three different enactments and two sets of rules having the force of law. Yet these enactments and rules leave several of the most important matters unprovided for, and hence it is necessary both to consolidate and to complete them.

Experience has shown that the only practical method to ensure the objects aimed at by forest-administration is to set apart and demarcate selected areas of Government forests, to liberate these areas as far as possible from rights of private persons, and to guard against the growth by prescription of fresh rights in forests thus set apart and demarcated.

Forests thus set apart and demarcated are called reserved forests, and the formation of such reserved forests in British Burma has proceeded steadily during the last five years. The formation of such reserved forests is preceded by a thorough and complete enquiry by a Settlement-officer into the rights and requirements of the people residing in and in the immediate vicinity of these areas. The guiding principle followed in this enquiry is, that such arrangements are made as will enable the people to provide for their requirements in the matter of forest-produce, either outside the reserved forests, or, under suitable rules, within their boundaries. And in the case of the tribes whose custom it is to carry on the shifting kind of cultivation by cutting and burning the forest which is called *Toungya* cultivation, defined areas are assigned to them where they may practice this kind of cultivation. Under these arrangements the formation of Government forest domains has been commenced, and their area aggregated, on 31st March last, 1,442 square miles.

The practical result of these proceedings is that the forests thus set apart and demarcated can be effectively protected and steadily improved, so that eventually a limited area will yield all the timber and other forest-produce required for home consumption and export, while the remainder can be thrown open for the use of the people and the extension of cultivation. The system here sketched enables Government to concentrate forest-conservancy upon limited areas, instead of attempting to enforce restrictions over the whole of the forests.

The procedure, however, hitherto followed in this respect in Burma, in some particulars, wants legal sanction, and hence the action of Government in setting apart reserved forests is not final, and may be called in question. The object of the present Bill is to legalize what has been done in this respect, and to lay down a procedure for the future.

3. The Indian Forest Act, which was passed in 1878, had the same object, and it must now be explained why it was not considered advisable to make the provisions of the Indian Forest Act applicable to Burma. One reason is that the procedure followed in the enquiry into, and the settlement of, forest-rights and in the demarcation of forests, as it has been developed by practical experience, is somewhat different from that prescribed by the Indian Forest Act. But this is a minor matter. The chief reason for special forest-legislation in Burma, consists in the provisions of the Burma Land and Revenue Act (Act No. 11 of 1876). Section 6 of that Act defines the rights in land subject to the second part of that Act, which are recognized by law, and clause (*b*) recognizes rights acquired under sections 27 and 28 of the Indian Limitation Act, 1871. The rights thus recognized are "easements" in the ordinary English acceptation of that term, including the use of light or air, way, watercourse, use of water, but not any prescriptive right by which one person is entitled to remove and appropriate, for his own profit, any part of the soil belonging to another, or, anything growing in, or attached to, or subsisting upon, the land of another.

The Indian Limitation Act of 1877 extended the definition of the term "easement" including in it all rights of the latter class. But it has been held that this did not affect the construction of the Burma Land and Revenue Act, and consequently the practical effect of section 6 of that Act is to deny the existence of all prescriptive rights of user of forest-produce in the forests of Burma.

But as a matter of fact there is no doubt that such rights existed in the Burma forests before the Burma Land and Revenue Act was passed, and their existence has been recognized in the enquiries which have preceded the demarcation of the existing reserved forests.

No forest-legislation for Burma could ignore these rights, and in framing the present Bill it was necessary to save them.

4. Several other important subjects have also been treated differently from the Indian Forest Act.

Thus the penalties for offences committed in reserved forests are all uniform in the Indian Forest Act, while in the present Bill it has been thought better to classify offences into two classes, and to assign to each class separate limits of punishment.

5. Again, as regards reserved forests which have already been demarcated it is proposed, having regard to the careful investigations made at the time they were reserved, that they should be placed by the direct operation of the Act in the position of reserved forests made under the Act, instead of leaving it to the local Government, as the Indian Forest Act does, to class them as such.

6. The provisions relating to village-forests differ from the corresponding provisions in the Indian Forest Act, in as far as they give power to constitute any forest which is at the disposal of Government, a village-forest, and not only such as have already been declared reserved forests.

7. A fundamental difference between the present Bill and the Indian Forest Act is in the chapter which deals with the protection of forests on Government lands not included in reserved or village-forests. The Indian Forest Act attempts to solve this question by authorizing the constitution of protected forests. These protected forests are intended to be defined areas in which the rights of Government and of private persons are enquired into and recorded.

In Burma, where a large portion (in many districts more than three-fourths of the area) is forest, this plan would be unnecessary. It would also be impracticable. Hence the present Bill only contemplates the formation of two classes of forests—reserved forests

and village-forests. The object of the former class is to furnish timber and other useful produce for the consumption of the Province and for export, while the object of the village-forests is to ensure a permanent supply of pasture and of wood and bamboos to the villages to which such forests are assigned. And while the first step is the formation of the State forest domains, which are styled reserved forests, it is intended that the formation of village-forests shall be taken in hand gradually as the growth of population and the clearing of the forests for cultivation may render necessary the setting apart of a certain area for the use of villages.

Outside these two classes of forests the great object in Burma must be to facilitate the extension of cultivation as much as possible. Hence it would not be expedient in any way to impede or limit the extension of cultivation by the establishment of a third class analogous to the protected forests of the Indian Forest Act. What is required is, outside the reserved forests and village-forests, to give a certain protection to the teak tree and to a few other reserved kinds, and to realize revenue from the timber, bamboos and other forest-produce used for purposes of trade.

These provisions must be maintained until the demarcation of the State (reserved) and village-forests has been completed, and until the forests of these two classes have been brought to such a condition by efficient protection and steadily-continued works of improvement, that they are capable of furnishing the timber and forest-produce required for the agricultural population, for the Province generally, and for export.

This aim cannot be expected to be accomplished for many years to come. But as it is accomplished in one district after another, the restrictions imposed upon the use of the forests outside the State and village-forests may be abolished in such districts.

8. That chapter of the Indian Forest Act which authorizes Government to exercise control in certain cases, for the public good, over forests which are not the property of Government is not required in Burma, and has therefore been omitted.

9. The power to impose a duty on foreign timber (section 36) is taken from the Indian Forest Act, and the duty imposed by section 37 on timber produced in certain forests in our own territory is one which has been levied for the last thirty years.

10. In the concluding chapters, which relate to the control of timber in transit, to the collection of drift or stranded timber, to penalties, cattle trespass, forest officers and to miscellaneous matters, the Bill follows generally the Indian Forest Act.

Briefly, it may be said that the Bill now published is the Indian Forest Act of 1878, with such changes as were necessary to adapt it to the peculiar circumstances of British Burma.

The 23rd December, 1880.

C. U. AITCHISON.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 15, 1881.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31th December, 1880, and was referred to a Select Committee :—

No. 21 of 1880.

A Bill to empower the Government of Madras to alter the local limits of the Coroner's Jurisdiction, and for other purposes.

Preamble.

WHEREAS under the Coroners' Act, 1871, the local limits of the jurisdiction of the Coroner of Madras are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras ;

and whereas it is expedient to empower the Governor of Fort St. George in Council to alter the local limits of the said Coroner's jurisdiction ;

and whereas it is also expedient to correct an error in section nine of Madras Act No. VIII of 1867 (*an Act to incorporate the Police of the Town of Madras with the general Police of the Madras Presidency and for other purposes*) as amended by the Code of Criminal Procedure ; It is hereby enacted as follows :—

Power to alter local limits of jurisdiction of Coroner of Madras.

1. The Governor of Fort St. George in Council may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *Fort St. George Gazette*, alter the local limits of the jurisdiction of the Coroner of Madras :

Provided that such limits shall not extend beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Sections 133 to 135 of Act X of 1872 to extend to area excluded from Coroner's jurisdiction.

2. When, in exercise of the power conferred by section one, any area within the local limits of the said ordinary original civil jurisdiction is excluded from the local limits of the Coroner's jurisdiction, sections 133 to 135 (both inclusive) of the Code of Criminal Procedure shall extend to such area while so excluded, and all functions assigned to a Magistrate by those sections shall be discharged by the Commissioner of Police.

New section substituted for section 9 of Madras Act VIII of 1867.

3. For section nine of the said Madras Act No. VIII of 1867, the following section shall be substituted :—

"9. The Town Police shall be governed by all the provisions of the Criminal Procedure Code, contained in sections 89, 91 to 103 (both inclusive), 108, 109, 110, 111, 112, 114, 116, 117 (first part), 118, 119, 120, 123, 124, 125, 127, 128, 129, 131, 136, 139, 140, 141, 142, 144, 147, chapter XII, sections 159, 161, 163 to 170 (both inclusive), 174 to 185 (both inclusive), chapter XXVII (except section 385), sections 415 to 420 (both inclusive), 480, so far as they are applicable :

Law to govern Town Police.

"Provided always, that the officer in charge of a Police-station shall not be required to bind over the prosecutor and witnesses as directed in section 123 of the said Code, if their immediate attendance can be procured without recognizances."

Act X of 1872, schedule V, in part repealed.

4. The portion of Schedule V of the Code of Criminal Procedure, under the heading "Acts of the Governor of Madras in Council," shall be read as if the letter and figure "s. 9" in the first column, and all the words and figures in the second and third columns opposite the said letter and figure, were omitted.

STATEMENT OF OBJECTS AND REASONS.

UNDER Act No. IV of 1871 (The Coroners' Act, 1871), the local limits of the jurisdiction of the Coroners in the towns of Calcutta, Madras and Bombay are made co-extensive with the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, respectively, no power to alter them being conferred. In Madras, these limits comprise twenty-seven square miles and include twenty-three agricultural villages. This area having of late years, owing to the increase in the number of inquests to be held, become too large for one Coroner, it is proposed that the Governor in Council should be empowered to restrict the local limits of the Coroner's jurisdiction by excluding from them the non-urban portion which differs but little from the adjoining mufassal district. To give effect to this proposal, the present Bill has been prepared. It empowers the Governor in Council, with the previous sanction of the Governor General in Council, to alter the local limits of the Coroner's jurisdiction, as may be from time to time convenient, provided that these limits are never extended beyond the present ones.

2. In the event of the powers conferred by the Bill being exercised and the local limits of the Coroner's jurisdiction restricted, the provisions of the Criminal Procedure Code relating to enquiries by the Police into unnatural and sudden deaths will (section 2) extend to the tract excluded from the jurisdiction of the Coroner, and the Commissioner of Police will discharge the functions of the Magistrate under those provisions.

3. The present opportunity has been taken to correct an error (the result of an oversight) in section 9 of the Madras Police Act (Madras Act No. VIII of 1867) as amended by the Code of Criminal Procedure.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee:—

No. 22 OF 1880.

A Bill to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

Preamble.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

Short title.

1. This Act may be called 'The Obstructions in fairways Act, 1881;"

Commencement.

and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty, or by the Secretary of State for India in Council.

Local Government empowered to remove or destroy obstruction in fairway.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(*a*) cause such thing or any part thereof to be removed; or,

(*b*) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

Act VII of 1880, s. 75.

Government entitled to expenses incurred in removing obstruction.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

Dispute concerning such expenses.

Act VII of 1880, s. 75.

Notice of removal to be given by Local Government.

Act VII of 1880, s. 76.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

Things removed may, in certain cases, be sold.

Act VII of 1880, s. 77.

5. If after publishing such notification, such thing is unclaimed,

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

Proceeds how applied.

Act VII of 1880, s. 78.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

"Vessel" to include tackle, cargo, &c.

40 & 41 Vic., c. 16, s. 6.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting or

throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

Penalty for breach of such rules.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Saving of other powers possessed by Government.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf. 40 & 41 Vic. c. 16, s. 8.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to empower the Government to remove obstructions to navigation which may exist in fairways situate in seas adjacent to British India, and to prohibit the creation of such obstructions for the future. The advantages of having such a law have been impressed upon the Government by certain recent cases. In one of these a question has been raised as to the power of the Government to remove the fishing stakes which are annually placed during the fine season in the sea off the port of Bombay, and which, having recently been advanced into the approach to the harbour, are now a source of serious danger to vessels frequenting that port. In another case which related to the deposit of ballast by ship-masters, at the mouth of the Rangoon river, a practice which, if permitted, might cause serious impediment and danger to the navigation of the approaches to the port of Rangoon, the need for some further preventive powers than those which Government now possesses, has been made apparent.

There can be no doubt that it is extremely desirable that the powers of Government officers, and the procedure to be followed by them, in relation to matters of this nature, should be clearly defined, and as the Indian Statute-Book, as it now stands, does not deal adequately with the subject, the present Bill has been prepared. A precedent for such legislation will be found in the Imperial Statute 40 & 41 Vic., c. 16 (the Removal of Wrecks Act, 1877). The Bill, while following generally the lines of the statute, goes beyond it in two material respects. The power to remove obstructions conferred by it is not confined, as in the statute, to the case of obstructions caused by wrecks, but extends also to fishing stakes, ballast and any other thing which may form an obstruction or danger to navigation. The other point in which the Bill goes beyond the statute is that, in addition to giving power to remove existing obstructions, it enables the Government to prevent the wilful creation of obstructions in the future. With this object the Governor General in Council is empowered (section 7) to make rules to regulate or prohibit in any fairway the placing of fishing stakes, the casting of ballast, or the doing of any other act which will, in his opinion, cause or be likely to cause danger or obstruction to navigation.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th December, 1880, and was referred to a Select Committee :—

No. 23 OF 1880.

A Bill to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).

WHEREAS it is expedient to amend Bengal Act No. IX of 1880 (the Cess Act, 1880); It is hereby enacted as follows :—

Preamble.

1. In the said Act, after section sixty-four, the following sections shall be inserted, and shall be deemed to have been so inserted on and from the date on which such Act came into force.

Amendment of Bengal Act No. IX of 1880.

"64A. All sums due to the holder of any estate or tenure under the provisions of this chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation :

Holders of estates, &c., how to recover from holders of rent-free lands.

"Provided that, if any such objection as is mentioned in section 53, has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

"64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer."

Owner, holder or occupier of rent-free lands may be sued.

Decree against occupier tantamount to decree against owner.

STATEMENT OF OBJECTS AND REASONS.

WHEN the Bill, which has since become Bengal Act No. IX of 1880 (The Cess Act, 1880), was submitted, for the first time, by the Government of Bengal for the assent of the Governor General, His Excellency, though approving of the policy of the Bill, was unable to give his assent, as he was advised that two of its sections were *ultra vires* of the Bengal Legislative Council. Section 65 was *ultra vires*, inasmuch as it extended to suits the parties to which were not landholder and tenant, the special procedure which the provincial legislature is, by section 4 of the Code of Civil Procedure, permitted to prescribe only in suits between landholder and tenant; and section 66 also appeared to be *ultra vires*, as it was inconsistent with the same Code, in enacting that a decree might be executed against a person who was neither a party or privy.

Though, however, feeling compelled for these reasons to withhold his assent from the Bill in its then form, His Excellency intimated to the Government of Bengal that he would be willing to give his assent to the measure if it was re-enacted with the omission of the provisions to which exception had been taken, and further, that if the Lieutenant-Governor should think these provisions were indispensable, a Bill would be introduced into the Council of the Governor General incorporating them, and drawn so as to come in force simultaneously with the Bengal Bill when re-enacted.

In accordance with this intimation, the Government of Bengal re-submitted the Bill with the omission of the objectionable provisions, and His Excellency has given his assent to the measure as thus amended. But, as the Local Government has expressed at the same time a strong opinion that the omitted sections are essential to their scheme of legislation, the present Bill has been prepared in fulfilment of the promise made by His Excellency. It simply re-enacts the provisions to which exception was taken, and incorporates them in the Bengal Act, by inserting them retrospectively in that enactment from the date on which it became law.

WHITLEY STOKES.

The 24th December, 1880.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th January, 1881, and was referred to a Select Committee :—

No. 1 OF 1881.

THE BURMA FOREST BILL, 1881.

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SCHEDULE.—ENACTMENTS REPEALED.

A Bill to amend the law relating to Forests, Forest-produce, and the duty leviable on Timber in British Burma.

Preamble.

WHEREAS it is expedient to amend the law relating to forests, forest-produce, and the duty leviable on timber in British Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short-title.

1. This Act may be called "The Burma Forest Act, 1881:"

Local extent.

It extends to all the territories for the time being administered by the Chief Commissioner of British Burma, provided that the Chief Commissioner may, from time to time, by notification in the local official Gazette, exempt any place from its operation; but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption; and

Commencement.

it shall come into force on the first day of May, 1881.

Repeal of enactments.

2. On and from that day the enactments mentioned in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

3. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,—

Interpretation-clause.

"Forest-officer" means all persons appointed by name or as holding an office by or under the orders of the Chief Commissioner to be—

"Forest-officer:"

Conservators, Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, Forest Guards or Forest-officers, or to discharge any function of a Forest-officer under this Act or the rules made hereunder:

"Forest-officer specially empowered" means in any provision of this Act any person whom the Chief Commissioner, or any officer empowered by the Chief Commissioner in this behalf, may, from time to time, appoint by name, or as holding an office, to discharge the functions of a Forest-officer under such provision:

"Forest-officer specially empowered:"

"tree" includes bamboos, stumps and brushwood:

"tree:"

"timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:

"timber:"

"forest-produce" includes the following when found in, or brought from, a forest (that is to say):—

"forest-produce."

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac and charcoal;

"forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"forest-offence:"

"cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"cattle:"

"river" includes also streams, canals, creeks and other channels, natural or artificial:

"river:"

"Magistrate" means a Magistrate of the first or second class, or (when specially empowered by the Chief Commissioner to try forest-offences) a Magistrate of the third class.

"Magistrate."

4. Nothing in the Burma Land and Revenue Act, 1876, shall be deemed to affect or ever to have affected any right by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another person or to the Government or anything growing in or attached to or subsisting upon the land of another person or of the Government; and

Saving of rights of profit from the Burma Land and Revenue Act, 1876.

nothing in this Act shall be deemed to affect the provisions of sections twenty and twenty-one of the Burma Land and Revenue Act, 1876.

CHAPTER II.

OF RESERVED FORESTS.

5. The Chief Commissioner may from time to time constitute any land over which no person has a right created by any grant or lease made by or in behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a reserved forest in manner hereinafter provided.

Power to reserve forests.

Cf. Act VII of 1878, s. 3.

6. Whenever it is proposed to constitute any land a reserved forest, the Chief Commissioner may publish a notification in the local official Gazette—

Notification by Chief Commissioner.

Cf. Act VII of 1878, s. 4.

(*a*) specifying the limits of such land or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) declaring that it is proposed to constitute such land a reserved forest;

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, and to deal with the same as provided in this chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person not holding any forest-office except that of Forest-Settlement-officer; but a Forest-officer may be appointed in subordination to the Forest-Settlement-officer to assist him in the inquiry prescribed by this chapter.

New.

7. When a notification has been issued under section six, the Forest-Settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

Proclamation by Forest-Settlement-officer.

Cf. Act VII of 1878, s. 6.

(*a*) specifying the limits of the proposed forest, or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) setting forth the provisions of section eight;

New.

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right mentioned in section six either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right.

8. During the interval between the publication of such proclamation and the date fixed by the notification under section eighteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right was vested when the proclamation was published; and on such land, except as hereinafter provided, no new house shall be built or plantation formed, and no fresh clearings for cultivation or for any other purpose shall be made and no trees

Bar of accrual of forest-rights.

Cf. Act VII of 1878, s. 5.

Prohibition of building, clearing, &c.

shall be cut for the purpose of trade or manufacture.

New. Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-Settlement-officer, or any clearings made for toungya cultivation by tribes or families in the habit of practising such cultivation on such land: provided that such clearings are not in contravention of any rule made under section twenty-one of the Burma Land and Revenue Act, 1876, and for the time being in force.

Cf. Act VII of 1878, s. 7. The words 'at some convenient place' omitted.

9. The Forest-Settlement-officer shall take down in writing all statements made under section seven, and shall inquire into all claims preferred under that section, and the existence of any rights mentioned in section six and not claimed under section seven.

Inquiry by Forest-Settlement-officer.

New. The Forest-Settlement-officer shall at the same time consider and record any objection to any claim which the Forest-officer (if any), appointed to assist him under section six, may make.

Cf. Act VII of 1878, s. 8.

10. For the purposes of such inquiry, the Forest-Settlement-officer may exercise the following powers (that is to say):—

Powers of Forest-Settlement-officer.

Wording changed. (*a*) the powers of a Demarcation-officer under The Burma Boundaries Act, 1880; and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure for compelling the attendance of witnesses and the production of documents.

Act VII of 1878, s. 9.

11. Rights in respect of which no claim has been preferred under section seven, and of the existence of which no knowledge has been acquired by enquiry under section nine, shall be extinguished, unless, before the notification under section eighteen is published, the person claiming them satisfies the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section seven.

Extinction of rights not claimed.

Cf. Act VII of 1878, s. 10.

12. In the case of a claim to a right in or over any land other than the following:—

Power to acquire land over which right is claimed.

(*a*) right of way,
(*b*) right to a water-course,
(*c*) right of pasture,
(*d*) right to forest-produce,

the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the Forest-Settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(i) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Cf. Act V of 1878, ss. 11, 12 and 1 (That section relates only to the rights mentioned in (*c*) and (*d*).)

13. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), (*c*) and (*d*) of section twelve, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Order on claims to rights of way, water-course, pasture or to forest-produce.

Cf. Act V of 1878, ss. 14 and

14. When the Forest-Settlement-officer admits wholly or in part any claim to a right of the kind specified in clauses (*c*) and (*d*) of section twelve, he shall, if practicable, by an order in writing, either continue such right to the claimant, or alter the limits of the proposed reserved forest, so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient, for the purposes of the claimant; and permit him to exercise his right on such land.

Provision for rights of pasture or to forest-produce admitted.

The order passed under this section shall record—

(*a*) the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the season during which, such pasture is permitted; or

(*b*) the quantity of timber and other forest-produce which the claimant is authorized to take or receive, the local limits within which, and the season during which, the taking of such timber or forest-produce is permitted; and

(*c*) when the exercise of such right is claimed in respect of any land or buildings, the designation, position and area of such land, and the designation and position of such buildings; and

(*d*) such other particulars as may be required in order to specify the nature of the right which is continued. New.

Cf. Act VI 1878, ss. 1 and 13.

15. Whenever any right of the kind specified in section twelve, clauses (*c*) and (*d*), and admitted under section thirteen, is not provided for in one of the ways prescribed in section fourteen, the Forest-Settlement-officer shall, subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf, commute such right, by paying a sum of money in lieu thereof, or with the consent of the claimant, by the grant of land or in such other manner as such officer thinks fit;

Commutation of such rights.

For the purpose of granting land under this section, the Forest-Settlement-officer shall be deemed to be an Assistant Commissioner in charge of a sub-division.

Cf. Act V 1878, s.

16. Any person who has made a claim under this chapter may, within three months from the date of any order passed on such claim by the Forest-Settlement-officer under section twelve, thirteen, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Chief Commissioner may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeal from order passed under foregoing sections.

Proviso omitted.

Act VII of 1878, s. 17.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the officer competent to hear the same.

Appeal under section 16.

Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue, and the order passed thereon by such officer shall be final:

Hearing of appeals.

Provided that every order of a Forest-Settlement-officer, and every order passed on appeal under this section, shall be subject to revision by the Chief Commissioner.

Orders of Forest-Settlement-officer, and orders on appeal, subject to Chief Commissioner's confirmation.

Act VII of 1878, s. 19.

18. When the following events have occurred (namely)—

Notification declaring forest reserved.

(*a*) the period fixed under section seven for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer; and

(*b*) if such claims have been made, the period limited by section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section twelve, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Chief Commissioner may publish a notification in the local official Gazette, specifying, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Act VII 1878, s. 20.

19. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in the manner prescribed for the proclamation under section seven.

Publication of translation of such notification in neighbourhood of forest.

VII of 78, s. 22.

20. No right of any description shall be acquired in or over a reserved forest, except by succession, or under a grant or contract in writing made by, or on behalf of, the Government, or some person in whom such right was vested when the notification under section eighteen was published.

No right acquired over reserved forest except as here provided.

Act VII of 78, s. 23.

21. Notwithstanding anything herein contained, no right continued or created under section fourteen shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner: provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house without such sanction.

Rights not to be alienated without sanction.

No timber or other forest-produce obtained in exercise of any right so continued or created shall be sold or bartered except to such extent as may be permitted by the Chief Commissioner.

22. A Forest-officer may from time to time, with the previous sanction of the Chief Commissioner or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest: provided that a substitute for the way or water-course so stopped, which the Chief Commissioner deems to be reasonably convenient, already exists, or has been provided or constructed by such Forest-officer in lieu thereof.

Power to stop ways and water-courses in reserved forest.

Cf. Act VII of 1878, s. 24.

Penalties for trespass or damage in reserved forests.

23. Any person who in a reserved forest—

(*a*) trespasses, or pastures cattle, or permits cattle to trespass;

Cf. Act VII of 1878, s. 25.

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*c*) in contravention of any rules which the Chief Commissioner may from time to time make in this behalf, hunts, shoots, fishes, poisons water, or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or when the damage resulting from his offence amounts to more than twenty-five rupees to double the amount of such damage.

Acts prohibited in such forests.

24. Any person who—

Cf. Act VII of 1878, s. 25.

(*a*) makes any fresh clearing prohibited by section eight, or

(*b*) sets fire to a reserved forest, or kindles any fire in such manner as to endanger the same,

or who, in a reserved forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered may from time to time notify in this behalf;

(*d*) fells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages the same;

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce;

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or when the damage resulting from his offence amounts to more than two hundred and fifty rupees to double the amount of such damage.

Acts excepted from prohibition contained in sections 23 and 24.

25. Nothing in section twenty-three or section twenty-four shall be deemed to prohibit (*a*) any act done by permission in writing of a Forest-officer, specially empowered or under any rule made by the Chief Commissioner in that behalf; or (*b*) the exercise of any right continued or created under section fourteen or created by grant or contract in the manner described in section twenty.

Act VII of 1878, s. 25.

Penalty for offences committed by persons having rights in reserved forests.

26. Whenever fire is caused wilfully or by gross negligence in a reserved forest, by any person having rights in such forest or by any person in his employ-

Cf. Act VII of 1878 s. 25.

ment, or whenever any person having rights in such forest contravenes the provisions of section twenty-one, the Chief Commissioner may (notwithstanding that a penalty has been inflicted under section twenty-four) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be extinguished or suspended for such period as he thinks fit.

Act VII of 1878, s. 26.

Power to declare forest no longer reserved.

27. The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

New.

Forests reserved under former rules.

28. Any forest which has been declared a reserved forest under any rules in force previous to the passing of this Act shall be deemed to have been reserved under this Act, all questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared under this Act, and all the provisions of this Act relating to reserved forests shall apply to such forest.

CHAPTER III.

OF VILLAGE-FORESTS.

New.

Constitution of village-forests.

29. The Chief Commissioner may from time to time, by notification in the local official Gazette, constitute any land over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a village-forest for the benefit of any village community or group of village communities, and may by a like notification cancel any such notification:

Provided that no such notification shall be deemed to affect any teak or other trees, which the Chief Commissioner may previous to the issue of such notification have declared to be reserved.

Every such notification shall specify definitely, according to boundary-marks erected or otherwise, the limits of such village-forest.

Cf. Act VII of 1878, s. 27, para. 2.

Power to make rules for village-forests.

30. The Chief Commissioner may from time to time make rules for regulating the management of village-forests, prescribing the conditions under which the communities for the benefit of which such forests are constituted may be provided with timber or other forest-produce, or with pasture and their duties in respect of the protection and improvement of such forest.

The Chief Commissioner may, by such rules, declare any of the provisions of this Act relating to the management, protection and improvement of reserved forests to be applicable to village-forests.

New.

Saving of private rights.

31. Nothing in this chapter shall be deemed to affect any existing rights of individuals or communities in or over any land constituted a village-forest:

Provided that the Chief Commissioner may in any case inquire into and determine the existence, nature and extent of any such rights and deal with the same in the manner provided in Chapter II of this Act for reserved forests.

Power to inquire into and deal with such rights.

CHAPTER IV.

OF THE PROTECTION OF FORESTS ON GOVERNMENT LANDS NOT INCLUDED IN RESERVED OR VILLAGE-FORESTS.

Reserved trees.

32. All teak trees standing on land to which the second part of the Burma Land and Revenue Act, 1876, applies, and over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of that Act, shall be reserved, and the Chief Commissioner may from time to time, by notification in the local official Gazette, declare any other trees or class of trees standing on such land to be reserved from a date fixed by such notification, and may alter or cancel any such notification.

Protection of reserved trees.

33. Except as provided by rules made by the Chief Commissioner in this behalf, or with the permission in writing of a Forest-officer specially empowered, no reserved tree may be cut, marked, lopped, girdled or injured by fire or otherwise.

Whoever cuts, marks, lops, girdles or injures by fire or otherwise any reserved tree in contravention of this section, shall be punished with fine which may extend to twenty rupees, or when the damage resulting from his offence amounts to more than ten rupees to double the amount of such damage.

Power to make rules generally.

34. The Chief Commissioner may from time to time make rules relating to the forest on the land referred to in section thirty-two. Cf. Act VII of 1878, s. 31.

Such rules may—

(*a*) prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*b*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce;

(*c*) regulate or prohibit the quarrying of stone or the burning of lime or charcoal;

(*d*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such pasturing;

(*e*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares; and

(*f*) regulate the sale or free grant of timber or other forest-produce.

Penalties for acts in contravention of rules.

The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

35. Nothing in this chapter or in any rule made under this chapter shall be deemed to prohibit any act done with the permission in writing of a Forest-officer specially empowered, or in the exercise of any right.

Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE DUTY ON TIMBER.

Act VII of 1878, s. 39.

36. The Chief Commissioner may levy a duty, in such manner, at such places, and at such rates as he may from time to time prescribe by notification in the local official Gazette, on all timber which is brought into British Burma from any place beyond the frontier of British Burma.

Power to impose duty on timber.

In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, from time to time fix, by like notification, the value on which such duty shall be assessed.

Power to fix value for *ad valorem* duty.

37. On all logs cut within the limits of the Attaran and Pandau Forests and floated down the Attaran and Salween rivers, duty shall be levied at the following rates, that is to say—

Duty on certain timber floated down the Salween and Attaran.

On logs floated down the Attaran river:

		Rs.	A.	P.	
Above five feet in girth	... ...	4	0	0	per log.
Below „ „	... ...	2	0	0	„
Stem pieces ...	... ...	0	9	0	„
Ship crooks ...	... ...	0	4	0	„
Boat „ ...	... ...	0	1	0	„
Small „ ...	... ...	0	0	6	„
„ pieces ...	... ...	0	2	0	„

On logs floated down the Salween river:

		Rs.	A.	P.	
Above five feet in girth	... ...	2	12	0	per log.
Below „ „	... ...	1	6	0	„
Stem pieces ...	... ...	0	9	0	„
Ship crooks ...	... ...	0	4	0	„
Boat „ ...	... ...	0	1	0	„
Small „ ...	... ...	0	0	6	„
„ pieces ...	... ...	0	2	0	„

38. The Chief Commissioner may exempt any timber from duty, and may revoke such exemption.

Power to exempt timber from duty.

CHAPTER VI.

OF THE CONTROL OF TIMBER IN TRANSIT.

Act VII of 1878, s. 41. Forest-produce omitted.

39. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber in transit by land or water, is vested in the Chief Commissioner, and he may from time to time make rules to regulate the transit of all timber:

Power to make rules to regulate transit of timber.

Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber may be imported into, exported from, or moved within, British Burma;

(*b*) prohibit the import and export or moving of such timber without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

(*d*) prohibit the loosening of timber formed into a raft or the setting adrift of any raft, by any person not the owner of such timber or raft, or not acting on behalf of the owner, or of Government;

(*e*) provide for the stoppage, reporting, examination and marking of timber in transit in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

Cl. (*d*).

(*f*) provide for the establishment and regulation of stations to which such timber shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such mark may be affixed to it; and the conditions under which such timber shall be brought to, stored at, and removed from, such station;

Cl. (*e*). 'stations' substituted for 'depôt.'

(*g*) authorize the transport of timber the property of Government across any land which is not the property of Government, and regulate the compensation to be paid for any damage done by the transport of such timber;

New.

(*h*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be obstructed;

Cl.

(*i*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction.

Cl. (*g*).

(*j*) prohibit absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

Cl. (*h*). 'supermarking of timber' new.

(*k*) regulate the use of property-marks for timber, and the registration of such marks; lay down the rules under which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

Cl. (*i*). With additions.

Nothing in this section shall be held to affect any private rights in immoveable property situate on the banks of rivers.

New.

40. The Chief Commissioner may by such rules prescribe as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Cf. Act VII of 1878, s. 42.

Penalties for breach of rules made under section 39.

In cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalties so prescribed.

41. The Government shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a rule made under section thirty-nine, or while detained elsewhere for the purposes of this Act; and no Forest-

Cf. Act VII of 1878, s. 43. 'station' substituted for 'depôt.'

Government and Forest-officers not liable for damage to timber at station.

officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Act VII of 1878, s. 44.

All persons bound to aid in case of accident at station.

42. In case of any accident or emergency involving danger to any property at any such station, every person employed at such station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Act VII of 1878, s. 45.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

43. All timber found adrift, beached, stranded or sunk;

all timber bearing marks which have not been registered under rules made under section thirty-nine, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and,

in such areas as the Chief Commissioner directs, all unmarked timber,

shall be deemed to be the property of Government unless and until any person establishes his right thereto as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section forty-nine, and may be brought to such stations as a Forest-officer specially empowered may from time to time notify as stations for the reception of drift-timber.

The words 'by Notification in local official Gazette' omitted.

The Chief Commissioner may exempt any class of timber from the provisions of this section, and withdraw such exemption.

Cf. Act VII of 1878, s. 46.

Notice to claimants of drift-timber.

44. Public notice shall from time to time be given by a Forest-officer specially empowered, of timber collected under section forty-three. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

'One month' substituted for 'two months.'

Act VII of 1878, s. 47.

Procedure on claim preferred to such timber.

45. When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

Words 'Criminal or Revenue' omitted before 'Court.'

No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Act VII of 1878, s. 48.

Disposal of unclaimed timber.

46. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-four, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section forty-five, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section forty-five, in such other person, free from all incumbrances.

Act VII of 1878, s. 49.

Government and its officers not liable for damage to such timber.

47. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-three.

Act VII of 1878, s. 50.

Payments to be made by claimant before timber is delivered to him.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section forty-nine.

Act VII of 1878, s. 51.

Power to make rules and prescribe penalties.

49. The Chief Commissioner may from time to time make rules to regulate the following matters (namely):—

(*a*) the salving, collection and disposal of all timber mentioned in section forty-three;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposing of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Chief Commissioner may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Cf. Act VII 1878, s. 52

Seizure of property liable to confiscation.

50. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report

of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Change.

Provided that when no property is seized except the forest-produce with respect to which such offence is believed to have been committed and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Cf. Act VII of 1878, s. 53. Slight changes.

51. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the appearance and trial of the accused and the disposal of the property according to law.

Procedure thereupon.

Cf. Act VII of 1878, s. 54. Words 'which is not the property of Government' omitted. See sec. 56.

52. When any person is convicted of a forest-offence all timber or forest-produce in respect of which such offence has been committed, and all tools, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Act VII of 1878, s. 55.

53. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken charge of by a Forest-officer specially empowered; and in any other case may be disposed of in such manner as the Court may order.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

Cf. Act VII of 1878, s. 56. Slight changes.

54. When the offender is not known or cannot be found, the Magistrate may, on application in that behalf, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by a Forest-officer specially empowered, or to be made over to such Forest-officer or to any other person whom he deems to be entitled to the same:

Procedure when offender not known or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate may cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or he may publish such notice in any way which he thinks fit.

VII of 78, s. 57.

55. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 50.

Act VII of 58. right forest-offi- appeal way.

56. Any person claiming to be interested in property seized under section fifty may, within one month from the date of any order passed under section fifty-two, fifty-three or fifty-four, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from orders under sections 52, 53 and 54.

57. When an order for the confiscation of any property has been passed under section fifty-two or fifty-four, as the case may be, and the period limited by section fifty-six for presenting an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Property when to vest in Government.

Act VII of 1878, s. 59.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section fifty and the withdrawal of any proceedings instituted in respect of such property.

Saving of power to release property seized.

Cf. Act VII of 1878, s. 60. The words 'and the withdrawal of any proceedings instituted' added.

59. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

Cf. Act VII of 1878, s. 61.

Any fine so imposed, or any portion thereof, may be given as compensation to the person aggrieved.

Last sentence new.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

Penalty for counterfeiting or defacing marks in trees and timber and for altering boundary-marks.

Cf. Act VII of 1878, s. 62. Slight change.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(*b*) unlawfully affixes a mark used by Forest-officers; or

New.

(*c*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

61. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Power to arrest without warrant.

Cf. Act VII of 1878, s. 63.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case.

Third para. of s. 63 of Indian Forest Act omitted.

Act VII of 1878, s. 64.

Power to prevent commission of offence.

62. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Sec. 65 of Indian Forest Act omitted. Act VII of 1878, s. 66.

Operation of other laws not barred.

63. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act:

Provided that no person shall be punished twice for the same offence.

Cf. Act VII of 1878, s. 67. Slight change.

Power to compound offences.

64. Any Forest-officer specially empowered may accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section fifty-nine or section sixty a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

Act VII of 1878, s. 65.

Presumption that forest-produce belongs to Government.

65. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER IX.

CATTLE-TRESPASS.

Act VII of 1878, s. 69.

Cattle-trespass Act, 1871, to apply.

66. Cattle trespassing in a reserved forest or a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

Act VII of 1878, s. 70.

Power to alter fines fixed by that Act.

67. The Chief Commissioner may from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section sixty-six of this Act, such fines as he thinks fit, but not exceeding the following (that is to say):—

'Camels' omitted.

	Rs.	A.
For each elephant... ...	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer ...	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	0	8

CHAPTER X.

OF FOREST-OFFICERS.

Act VII of 1878, s. 71.

Chief Commissioner may invest Forest-officers with certain powers.

68. The Chief Commissioner may invest any Forest-officer by name, or as holding an office, with the following powers (that is to say):—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure;

(*d*) power to hold enquiries into forest-offences, and in the course of such enquiries to receive and record evidence.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate: provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333 or section 334 of the Code of Criminal Procedure.

Last part of proviso new.

Act VII of 1878, s. 72.

Forest-officers deemed public servants.

69. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Cf. Act VII of 1878, s. 73. The words 'or criminal action' new.

Indemnity for acts done in good faith.

70. No suit or criminal prosecution shall lie against any public servant for anything done by him in good faith under this Act.

Act VII of 1878, s. 74.

Forest-officers not to trade.

71. Except with the permission in writing of the Chief Commissioner, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or foreign territory.

CHAPTER XI.

MISCELLANEOUS.

Cf. Act VII of 1878, s. 75.

Additional powers to make rules.

72. The Chief Commissioner may from time to time make rules consistent with this Act—

(*a*) to prescribe and limit the powers and duties of any Forest-officer;

(*b*) to regulate the powers and proceedings of Forest-Settlement-officers; New.

(*c*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act; and Cl. (*c*) of s. 75 of I. F. Act omitted.

(*d*) generally to carry out the provisions of this Act. Sec. 76 of I. F. Act omitted.

Cf. Act VII of 1878, s. 77.

Rules when to have force of law.

73. All rules made by the Chief Commissioner under this Act shall be published in the local official Gazette, and shall thereupon have the force of law. Second para omitted.

Act VII of 1878, s. 78.

Persons bound to assist Forest-officer and Police-officer.

74. Every person who exercises any right in a reserved forest or a village-forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-officer demanding his aid

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

VII of 8, s. 81.

75. All money payable to the Government under this Act, or under any rule made hereunder, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

VII of 8, s. 82.

76. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered and retained by him until such amount has been paid.

Lien on forest produce for such money.

If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

77. Whenever it appears to the Chief Commissioner that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

Act VII of 1878, s. 83.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

(*See section 1.*)

ENACTMENTS REPEALED.

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII of 1865 ...	An Act to give effect to rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII of 1869...	An Act to give validity to certain rules relating to forests in British Burma.	The whole.
Act XIII of 1873	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874.	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.

STATEMENT OF OBJECTS AND REASONS.

1. The necessity for placing forest-legislation in British Burma upon a satisfactory footing has been felt for a considerable time. The present state of the law is as follows:—

The Government Forests Act (Act No. VII of 1865) is in force, but it does not provide for all requirements. That Act gave power to make rules, having the force of law, for the management and preservation of the Government forests and for the control of the timber floated down rivers. Accordingly in August, 1865, rules for the administration of forests in British Burma were promulgated. These rules, though purporting to have been made under the Government Forest Act, were not covered by its provisions, and accordingly they were legalized by Act No. VII of 1869.

In 1873 it was deemed advisable to amend and consolidate the law relating to timber floated down the rivers of Burma. Accordingly the Burma Timber Act (*No. XIII of 1873*) was passed. This Act repealed Act No. VII of 1869 and the rules legalized by that Act as far as they related to duty on timber floated down the rivers of British Burma.

The rules of August, 1865, related only to a portion of the Government forests, as defined in the rules, and it became necessary to provide by another set of rules for the administration of the forests thus excluded. This was done by rules made under Act No. VII of 1865, which were promulgated in Burma in March, 1876, together with a notification defining the areas to which they were applicable.

Thus the administration of the Government forests in Burma and the management of the timber floated down its rivers is governed by three different enactments and two sets of rules having the force of law. Yet these enactments and rules leave several of the most important matters unprovided for, and hence it is necessary both to consolidate and to complete them.

Experience has shown that the only practical method to ensure the objects aimed at by forest-administration is to set apart and demarcate selected areas of Government forests, to liberate these areas as far as possible from rights of private persons, and to guard against the growth by prescription of fresh rights in forests thus set apart and demarcated.

Forests thus set apart and demarcated are called reserved forests, and the formation of such reserved forests in British Burma has proceeded steadily during the last five years. The formation of such reserved forests is preceded by a thorough and complete enquiry by a settlement-officer into the rights and requirements of the people residing in and in the immediate vicinity of these areas. The guiding principle followed in this enquiry is that such arrangements are made as will enable the people to provide for their requirements in the matter of forest-produce, either outside the reserved forests, or, under suitable rules, within their boundaries. And in the case of the tribes whose custom it is to carry on the shifting kind of cultivation by cutting and burning the forest which is called *toungya* cultivation, defined areas are assigned to them where they may practise this kind of cultivation. Under these arrangements the formation of Government forest domains has been commenced, and their area aggregated, on 31st March last, 1,442 square miles.

The practical result of these proceedings is that the forests thus set apart and demarcated can be effectively protected and steadily improved, so that eventually a limited area will yield all the timber and other forest-produce required for home consumption and export, while the remainder can be thrown open for the use of the people and the extension of cultivation. The system here sketched enables Government to concentrate forest-conservancy upon limited areas, instead of attempting to enforce restrictions over the whole of the forests.

The procedure, however, hitherto followed in this respect in Burma, in some particulars, wants legal sanction, and hence the action of Government in setting apart reserved forests is not final, and may be called in question. The object of the present Bill is to legalize what has been done in this respect, and to lay down a procedure for the future.

3. The Indian Forest Act, which was passed in 1878, had the same object, and it must now be explained why it was not considered advisable to make the provisions of the Indian Forest Act applicable to Burma. One reason is that the procedure followed in the enquiry into, and the settlement of, forest-rights and in the demarcation of forests, as it has been developed by practical experience, is somewhat different from that prescribed by the Indian Forest Act. But this is a minor matter. The chief reason for special forest-legislation in Burma, consists in the provisions of the Burma Land and Revenue Act (Act No. II of 1876). Section 6 of that Act defines the rights in land subject to the second part of that Act, which are recognized by law, and clause (*b*) recognizes rights acquired under sections 27 and 28 of the Indian Limitation Act, 1871. The rights thus recognized are "easements" in the ordinary English acceptation of that term, including the use of light or air, way, watercourse, use of water, but not any prescriptive right by which one person is entitled to remove and appropriate, for his own profit, any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another.

The Indian Limitation Act of 1877 extended the definition of the term "easement" including in it all rights of the latter class. But it has been held that this did not affect the construction of the Burma Land and Revenue Act, and consequently the practical effect of section 6 of that Act is to deny the existence of all prescriptive rights of user of forest-produce in the forests of Burma.

But as a matter of fact there is no doubt that such rights existed in the Burma forests before the Burma Land and Revenue Act was passed, and their existence has been recognized in the enquiries which have preceded the demarcation of the existing reserved forests.

No forest-legislation for Burma could ignore these rights, and in framing the present Bill it was necessary to save them.

4. Several other important subjects have also been treated differently from the Indian Forest Act.

Thus the penalties for offences committed in reserved forests are all uniform in the Indian Forest Act, while in the present Bill it has been thought better to classify offences into two classes, and to assign to each class separate limits of punishment.

5. Again, as regards reserved forests which have already been demarcated, it is proposed, having regard to the careful investigations made at the time they were reserved, that they should be placed by the direct operation of the Act in the position of reserved forests made under the Act, instead of leaving it to the local Government, as the Indian Forest Act does, to class them as such.

6. The provisions relating to village-forests differ from the corresponding provisions in the Indian Forest Act, in as far as they give power to constitute any forest which is at the disposal of Government, a village-forest, and not only such as have already been declared reserved forests.

7. A fundamental difference between the present Bill and the Indian Forest Act is in the chapter which deals with the protection of forests on Government lands not included in reserved or village-forests. The Indian Forest Act attempts to solve this question by authorizing the constitution of protected forests. These protected forests are intended to be defined areas in which the rights of Government and of private persons are enquired into and recorded.

In Burma, where a large portion (in many districts more than three-fourths of the area) is forest, this plan would be unnecessary. It would also be impracticable. Hence the present Bill only contemplates the formation of two classes of forests—reserved forests

and village-forests. The object of the former class is to furnish timber and other useful produce for the consumption of the Province and for export, while the object of the village-forests is to ensure a permanent supply of pasture and of wood and bamboos to the villages to which such forests are assigned. And while the first step is the formation of the State forest domains, which are styled reserved forests, it is intended that the formation of village-forests shall be taken in hand gradually as the growth of population and the clearing of the forests for cultivation may render necessary the setting apart of a certain area for the use of villages.

Outside these two classes of forests the great object in Burma must be to facilitate the extension of cultivation as much as possible. Hence it would not be expedient in any way to impede or limit the extension of cultivation by the establishment of a third class analogous to the protected forests of the Indian Forest Act. What is required is, outside the reserved forests and village-forests, to give a certain protection to the teak tree and to a few other reserved kinds, and to realize revenue from the timber, bamboos and other forest-produce used for purposes of trade.

These provisions must be maintained until the demarcation of the State (reserved) and village-forests has been completed, and until the forests of these two classes have been brought to such a condition by efficient protection and steadily-continued works of improvement, that they are capable of furnishing the timber and forest-produce required for the agricultural population, for the Province generally, and for export.

This aim cannot be expected to be accomplished for many years to come. But as it is accomplished in one district after another, the restrictions imposed upon the use of the forests outside the State and village-forests may be abolished in such districts.

8. That chapter of the Indian Forest Act which authorizes Government to exercise control in certain cases, for the public good, over forests which are not the property of Government is not required in Burma, and has therefore been omitted.

9. The power to impose a duty on foreign timber (section 36) is taken from the Indian Forest Act, and the duty imposed by section 37 on timber produced in certain forests in our own territory is one which has been levied for the last thirty years.

10. In the concluding chapters, which relate to the control of timber in transit, to the collection of drift or stranded timber, to penalties, cattle trespass, forest officers and to miscellaneous matters, the Bill follows generally the Indian Forest Act.

Briefly, it may be said that the Bill now published is the Indian Forest Act of 1878, with such changes as were necessary to adapt it to the peculiar circumstances of British Burma.

The 30th December, 1880.

R. THOMPSON.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881, and was referred to a Select Committee :—

No. 2 OF 1881.

A Bill to provide for the better government of Fort William.

WHEREAS it is expedient to empower the Local Government to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows :—

Preamble.

Short title.

1. This Act may be called "The Fort William Act, 1881;"

Commencement.

and it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable.

"The Fort."

2. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define, for the purposes of this Act, the limits of Fort William in Bengal, and in this Act the expression "the Fort" means the area so defined.

Local Government may make rules.

3. The Local Government may from time to time, with the like sanction and in like manner, make rules, to provide, within the Fort, for the matters specified in the schedule hereto annexed, and may by such rules prescribe as penalties for the infringement thereof, fine, which may extend to fifty rupees, or imprisonment for a term which may extend to four days or both.

When a sentence of fine is passed under any such rule, the term, for which the Court directs the offender to be imprisoned in default of payment of such fine, may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof in English and such other languages as the Local Government may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

Local Government may invest officer with power to try breaches of rules.

4. The Local Government may invest any commissioned officer in Her Majesty's Army, with power to try persons charged with any infringement of the rules made under section three.

The officer so invested is hereinafter called the Fort Magistrate.

Procedure to be followed.

5. In the case of all offences punishable under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and as nearly as may be follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877; and subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147, every finding, sentence or order of such Magistrate under this Act shall be final.

Power to arrest without warrant.

6. Any Police-officer, or any other person empowered in this behalf by the Local Government, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Power to Police-officer to release on bail.

Every person so arrested shall be taken to the Police-station within the Fort, and shall be detained there until he can be brought before the Fort Magistrate, or until he gives to the Police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before such Magistrate at a time to be specified in such bond.

See Ben. Act IV of 1866, ss. 76—78.

Jurisdiction of Presidency Magistrates and prosecutions under other laws saved.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877, or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Limitation of time of prosecutions under Act.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

Validation of penalties heretofore imposed by Garrison Quarter-master.

9. All penalties heretofore imposed by the Garrison Quarter-master of the Fort for offences against garrison rules and regulations, shall be deemed to have been imposed in accordance with law.

THE SCHEDULE.

(*See section 3*).

Cf. Act III of 1880, s. 27, cl. 6.

See sched. to Ben. draft, Nos. 1—8, 19, 24, 25, 39, 49.

1. The conservancy of the buildings, roads, drainage—channels and lands, the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, the prevention and cure of disease and the maintenance generally of the Fort in a proper sanitary condition.

2. The definition and prohibition of public nuisances and trespasses.

3. The regulation of public traffic and the picketing of animals. — See sched. to Ben. draft, Nos. 9—12, 24.

4. The regulation of the sale of goods and the removal of property. — *ib.*, Nos. 13, 31. *ib.*, No. 41.

5. The maintenance of public peace and quiet, and the prevention of disorderly conduct. — *ib.*, Nos. 14, 16, 28, 34—37.

6. The maintenance, in a neat and well-ordered state, of the buildings, roads, ramparts, parade-grounds and other parts of the Fort. — *ib.*, Nos 15, 18—26, 29, 38.

7. The apprehension, custody and trial of persons who are drunk and incapable. — *ib.*, No. 27, *ib.*, No 30.

8. The regulation of admission to, and residence in, the Fort. — *ib.*, Nos. 32, 33, 48.

9. The precautions to be taken against fire. — *ib.*, Nos. 39, 40.

10. The keeping of animals. — *ib.*, Nos 43, 44, 45.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for the punishment of certain petty offences when committed within the limits of Fort William. At present the Garrison Quarter-master of the Fort is in the habit of punishing camp-followers and other Natives connected with the Fort who are guilty of certain offences against the garrison rules; but the jurisdiction of this officer, though it has been long exercised, has recently been called in question. As it is necessary, on sanitary grounds and for the maintenance of order, that there should be some officer within the Fort legally empowered to punish persons guilty of acts or omissions of the nature of those now punished by the Garrison Quarter-master, the present Bill has been prepared. It is based on a draft submitted by the Government of Bengal, and comprises two main provisions: *first*, it empowers the Local Government to lay down rules with light penalties attached in respect of certain matters which correspond generally with the matters to which the present garrison rules relate; *secondly*, it provides for the appointment of a commissioned officer (to be called the Fort Magistrate) with power to try persons guilty of breaches of these rules. The other provisions of the Bill are subsidiary to these. Those that appear to call for notice here are section 7, under which the present jurisdiction of the Presidency Magistrates is saved, and section 9, which validates all punishments which may have been heretofore inflicted by the Garrison Quarter-master. Lastly, the Bill exempts from its operation all persons subject to military law as it is thought that such persons can be more fittingly punished under such law.

H. J. REYNOLDS.

The 8th January, 1881.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881 :—

WE, the undersigned Members of the Select Committee to which the Bill to regulate the importation, possession and transport of petroleum and other substances of a like nature was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Officiating Secretary to Government, Bengal, to Secretary to Government of India, Home, Revenue and Agricultural Department, No. 901, dated 15th November, 1879, and enclosures [Papers No. 1].
" Acting Secretary to Government, Bombay, to ditto, No. 820, dated 19th March, 1880, and enclosure [Papers No. 2].
" Officiating Secretary to Chief Commissioner, Assam, No. 1701, dated 2nd September, 1880 [Paper No. 3].
" Secretary to Chief Commissioner, Mysore and Coorg, No. 696-3, dated 31st August, 1880 [Paper No. 4].
" Chief Commissioner, Ajmer-Merwára, No. 647, dated 17th September, 1880 [Paper No. 5].
" Secretary for Birár to Resident, Haidarábád, No. 278, dated 22nd September, 1880 [Paper No. 6].
" Secretary to Government, North-Western Provinces and Oudh, No. 1148, dated 29th September, 1880, and enclosure. [Papers No. 7].
" Chief Secretary to Government, Madras, No. 2341, dated 28th September, 1880, and enclosure [Papers No. 8].
" Secretary to Government, Panjáb, No. 3239, dated 9th October, 1880, and enclosures [Papers No. 9].
" Acting Secretary to Government, Bombay, No. 3041, dated 8th October, 1880, and enclosures [Papers No. 10].
" Secretary for Birár to Resident, Haidarábád, No. 300, dated 6th October, 1880, and enclosures [Papers No. 11].
" Officiating Secretary to Government, Bengal, No. 463T, dated 23rd October, 1880, and enclosures [Papers No. 12].
" Officiating Secretary to Chief Commissioner, British Burma, No. 7571-15-5, dated 29th October, 1880, and enclosures [Papers No. 13].
" Secretary, Chamber of Commerce, Bombay, dated 14th August, 1880, and enclosure [Papers No. 14].
Telegram from Government of Bombay, dated 7th December, 1880 [Papers No. 14].

2. We propose, in accordance with the opinion now expressed by the Government of Bengal, to do away with the distinction between first and second class petroleum introduced by the Bengal Committee. This distinction appears to us unnecessary, and its abolition will much simplify the measure by reducing the classes of petroleum to be dealt with to two, as in England, namely, dangerous petroleum and ordinary petroleum.

3. The flashing point of dangerous petroleum, as originally fixed in accordance with the recommendation of the Bengal Committee at 83° F. by Abel's test, has been objected to in many quarters as unnecessarily and inconveniently high. The Lieutenant-Governor of Bengal now proposes to reduce it to 78°; and on fully considering the papers submitted to us, we are prepared to reduce it even lower. There can be no doubt that the circumstance that the temperature of the air in most parts of India is throughout a great portion of the year higher than that which prevails in England, would, all other things being equal, make a petroleum flashing at a temperature between 70° and 80° F. more dangerous here than in England; but against this must be set off the greater openness and airiness of Indian buildings and the comparative absence of carpets, curtains and other such articles likely to catch fire; and, though at times serious accidents have occurred in this country, it can hardly be said that there is evidence to show that the danger is so serious as to warrant our extending the severe restrictions which the Bill imposes on dangerous petroleum to any petroleum flashing above the point, which has, after full consideration, been fixed upon in England and which has hitherto been adopted in Bengal. We have accordingly fixed the flashing point of dangerous petroleum at 73° F. by Abel's test equal to 100° F. by the old test.

4. We have made some other amendments in the Bill, with a view to relaxing in certain particulars the restrictions it imposes; thus, in order to avoid the delay, to which ships bringing petroleum to our ports might have been subjected if the samples furnished had to be tested before the petroleum was landed, we have altered the wording of the Bill so as to allow of the petroleum being landed directly the samples are delivered. We think that the control which the Bill gives over the petroleum when landed will be amply sufficient to secure the object in view.

5. Again, we have confined the provision of the Bill which requires petroleum to be kept in indelibly marked vessels, to *dangerous* petroleum, and we have reduced the maximum penalty

for illegally importing, possessing or transporting petroleum from three months' imprisonment and one thousand rupees fine, to one month's imprisonment and five hundred rupees fine.

6. The power given by the Bill to extend the Act to other inflammable substances appears to be unnecessarily large, and we have therefore confined it to cases in which those substances are fluid.

7. The only other alterations we have made which are of sufficient importance to call for notice here are the insertion of a provision in section 7 of the Bill as now amended, empowering the Government to fix ports at which only petroleum may be imported, the addition of a clause to section 12 entitling a dealer, whose petroleum is tested under the Act, to a copy of the certificate of the result of the testing, free of charge, the insertion in section 16 of words providing that the tins or other vessels in which confiscated petroleum is contained may be confiscated with it, and the addition of a provision in section 18 requiring all rules made under the Act to be published for a month before they take effect.

8. The Bill, with its Statement of Objects and Reasons, has been published in English, in the local official Gazettes, except those of the Central Provinces and Assam. Its publication in the vernacular Gazettes has been reported by the Governments of Bengal and the North-Western Provinces and Oudh, and the Chief Commissioner of Mysore. It has met with considerable opposition on account of its stringency, but, if the important mitigations of its provisions which we now recommend are approved by the Council, we think it may safely be passed without being again re-published. The measure having been now before the public for six months, it can hardly be said that timely notice of it has not been given to all concerned; but in order to guard against the possibility of hardship to holders or consignees of dangerous petroleum, we propose that it should not come into force till the 1st of July.

WHITLEY STOKES.
J. GIBBS.
B. W. COLVIN.
G. F. MEWBURN.

The 14th January, 1881.

No. II.

THE PETROLEUM BILL, 1881.

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THE SCHEDULE.

No. II.

A Bill to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preamble.

Preliminary.

Short title. Commencement.

1. This Act may be called "The Petroleum Act, 1881"; and it shall come into force on the first day of July, 1881.

Committee's recommendations, para. 1.

Local extent.

The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may, from time to time, by notification in the official Gazette, direct.

Repeal of enactments.

2. The Indian Ports Act, 1875, section thirty-seven, and Bengal Act No. III of 1865 (*to make better provision for the prevention of injury from fire in Ports, and to provide for the safe keeping of Inflammable Oils in Ports and places within the Provinces under the control of the Lieutenant-Governor of Bengal*) are hereby repealed.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

34 & 35 Vic., c. 105, s. 3, with additions on Committee's report.

"Petroleum."

"Petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine and any inflammable liquid that is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum,

Committee's recommendations, para. 3.

but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred and fifty degrees of Fahrenheit's thermometer.

Committee's recommendations, para. 4.

Explanation.—The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with the apparatus and in the manner described in the Schedule hereto annexed.

"Dangerous petroleum."

"Dangerous petroleum" means petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer:

"Import."

"Import" means to bring into British India by sea or land:

and "importation" means the bringing into British India as aforesaid.

"Transport."

"Transport" means to remove from one place to another within British India:

Dangerous Petroleum.

Dangerous petroleum in quantities exceeding 40 gallons.

4. No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

Application for license to import, transport or possess such petroleum.

Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of such petroleum which it is desired to import, transport or possess, as the case may be;

(*b*) the purpose for which the applicant believes that such petroleum will be used; and

(*c*) that petroleum other than dangerous petroleum cannot be used for such purpose.

Power to grant license.

If the Local Government sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, it may grant such license for the importation, transport or possession (as the case may be) of such petroleum, absolutely or subject to such conditions as it thinks fit.

Dangerous petroleum in quantities not exceeding 40 gallons.

5. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Provided that nothing in this section shall apply in any case when the quantity of such petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware or metal vessels, each of which contains not more than a pint and is securely stopped. 34 & 35 Vic., c. 105, s. 7.

Vessels containing dangerous petroleum to be marked.

6. All dangerous petroleum— 34 & 35 Vic., c. 105, s. 8.

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels which shall bear an indelible mark or a label in conspicuous characters, stating the nature of the contents thereof. Cf. Act I of 1878, s. 9.

Petroleum generally.

Committee's recommendations, paras. 12 to 20.

Power to make rules as to the importation of petroleum.

7. The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum and in particular—

(*a*) for ascertaining the quantity and description of any petroleum on board a ship;

(*b*) to provide for the delivery, by the master of a ship or the consignees of the cargo, of samples of petroleum before such petroleum is landed from such ship, and for the testing thereof;

(*c*) to determine the ports at which only petroleum may be imported; and

(*d*) to regulate the time and mode of, and the precautions to be taken on, landing or transhipping any petroleum.

In this section—

"Ship."

"Ship" includes anything made for the conveyance by water of human beings or property:

"Master."

"Master" includes every person (except a Pilot or Harbour Master) having for the time being the charge or control of a ship.

Possession and transport of petroleum.

8. No quantity of petroleum exceeding five hundred gallons, shall be kept by any one person or on the same premises or shall be transported except under and in accordance with the conditions of a license granted under this Act.

Power to make rules as to such possession and transport.

9. The Local Government may from time to time make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

Such rules may provide for the following among other matters, that is to say—

in the case of licenses to possess petroleum—

(*a*) the nature and situation of the premises for which they may be granted, and

(*b*) the inspection of such premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

(*c*) the manner in which the petroleum shall be packed, the mode of transit, and the route by which it is to be taken, and

(*d*) the stoppage and inspection of it during transit;

in the case of both such licenses—

(*e*) the authority by which the license may be granted;

(*f*) the fee to be charged for it;

(*g*) the quantity of petroleum it is to cover;

(*h*) the conditions which may be inserted in it;

(*i*) the time during which it is to continue in force; and

(*k*) the renewal of the license.

34 & 35 Vic., c. 105, s. 11.

Power to inspect and require dealer to sell samples.

10. Any officer specially authorized by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place, and any of the vessels, in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Ibid.

Notice to be given when officer proposes to test samples.

11. When any such officer has, in exercise of the powers conferred by section ten, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such sample or cause the same to be tested with the apparatus and in the manner described in the schedule hereto annexed, at a time and place to be fixed in such notice, and that such person or his Agent may be present at such testing.

Ibid.

Certificate as to result of such testing.

12. On any such testing if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Penalties.

Penalty for illegal importation, &c., of petroleum.

13. Any person who, in contravention of this Act or of any rules made hereunder, imports, possesses or transports any petroleum; and any person who otherwise contravenes any such rules or any condition contained in a license granted hereunder, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

34 & 35 Vic. c. 63.

Penalty for keeping, transporting or exposing for sale petroleum in contravention of section 6.

14. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not marked or labelled as prescribed by section six, shall be punished with fine which may extend to fifty rupees.

34 & 35 Vic. c. 105, s. 12.

Penalty for refusing to comply with section 10.

15. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section ten any place, or any of the vessels, in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with fine which may extend to two hundred rupees.

Cf. Act I of 1878, s. 11.

Confiscation of petroleum.

16. In any case in which an offence under section thirteen or section fourteen has been committed, the convicting Magistrate may direct that,—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting or is in possession of any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing, or transporting, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

17. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate and elsewhere by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Miscellaneous.

Rules when to have force of law.

18. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall, on the expiry of one month from the date of such publication, have the force of law:

Provided that no such rule shall be so published without the previous sanction of the Governor General in Council.

34 & 35 V c. 105, s.

Power to apply this Act to other fluids.

19. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by such notification fix, in substitution for the quantities of petroleum fixed by sections four, five and eight, the quantities of such fluid to which these sections shall apply.

The Governor General in Council may by a like notification cancel any notification issued under this section.

THE SCHEDULE.

Specification explanatory of the Test Apparatus.

Committee's recommendations, para. 5, and 42 & 43 Vic., c. 47.

The following is a description of the details of the apparatus :—

The oil-cup consists of a cylindrical vessel 2″ diameter, $2\frac{2}{10}$″ height (internal), with outward projecting rim $\frac{5}{10}$″ wide, $\frac{3}{8}$″ from the top and $1\frac{1}{8}$″ from the bottom of the cup. It is made of gun metal or brass (17 B. W. G.), tinned inside. A bracket, consisting of a short stout piece of wire, bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is $1\frac{1}{2}$″. The cup is provided with a close-fitting overlapping cover made of brass (22 B. W. G.) which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions, upon which it may be made to oscillate: it is provided with a spout the mouth of which is $\frac{1}{16}$″ in diameter. The socket which is to hold the thermometer is fixed at such an angle, and its length is so adjusted that the bulb of the thermometer, when inserted to its full depth, shall be $1\frac{1}{4}$″ below the centre of the lid.

The cover is provided with three square holes, one in the centre $\frac{5}{10}$″ by $\frac{4}{10}$″, and two smaller ones, $\frac{3}{16}$″ by $\frac{2}{10}$″, close to the sides and opposite each other. These three holes may be closed and uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of, and in line with, the mouth of the lamp, is fixed a white bead the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B. W. G.), an inner one of 3″ diameter and $2\frac{1}{2}$″ height, and an outer one of $5\frac{1}{2}$″ diameter and $5\frac{1}{4}$″ height; they are soldered to a circular copper plate (20 B. W. G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about $\frac{3}{8}$″, that is, its diameter is about $\frac{3}{4}$″ greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath of the oil lamp is $1\frac{1}{4}$″. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B. W. G.), flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is $6\frac{1}{2}$″. One of the three legs of the stand serves as support for the spirit lamp, attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1″.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way; it is fitted with a metal collar fitting the socket, and the part of the tube below the scale should have a length of about $3\frac{1}{2}$″ measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb $2\frac{1}{4}$″.

NOTE.—A model apparatus is deposited at the office of the Chemical Examiner to Government at Calcutta.

Directions for applying the Test.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water-bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water-bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat plaited candlewick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame which is represented by the projecting white bead on the cover of the oil cup is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65°, the samples to be tested should be cooled down (to about 60°) by immersing the bottle containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is put into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum,* which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66°, the operation of testing is to be commenced, the test flame being applied once for every rise of one degree in the following manner:—

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test apparatus to determine the flashing points of oils of very low volatility, the mode of proceeding is to be modified as follows:—

The air chamber which surrounds the cup is filled with cold water, to a depth of 1½ inches, and the heating vessel or water-bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120°, instead of with cold water.

D. FITZPATRICK,
Secy. to the Govt of India.

* This pendulum is two (2) feet in length from the point of suspension to the centre of gravity of the weight.

The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 22, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th January, 1881, and was referred to a Select Committee :—

No. 1 OF 1881.

THE BURMA FOREST BILL, 1881.

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SCHEDULE.—ENACTMENTS REPEALED.

A Bill to amend the law relating to Forests, Forest-produce, and the duty leviable on Timber in British Burma.

WHEREAS it is expedient to amend the law relating to forests, forest-produce, and the duty leviable on timber in British Burma; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Forest Act, 1881:"

Short-title.

It extends to all the territories for the time being administered by the Chief Commissioner of British Burma, provided that the Chief Commissioner may, from time to time, by notification in the local official Gazette, exempt any place from its operation; but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption; and

Local extent.

it shall come into force on the first day of May, 1881.

Commencement.

2. On and from that day the enactments mentioned in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Repeal of enactments.

"and in all rules made hereunder" new.

3. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,—

Interpretation-clause.

"Forest-officer" means all persons appointed by name or as holding an office by or under the orders of the Chief Commissioner to be—

"Forest-officer:"

New.

Conservators, Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, Forest Guards or Forest-officers, or to discharge any function of a Forest-officer under this Act or the rules made hereunder:

Act VII of 1878, s. 2.

"Forest-officer specially empowered" means in any provision of this Act any person whom the Chief Commissioner, or any officer empowered by the Chief Commissioner in this behalf, may, from time to time, appoint by name, or as holding an office, to discharge the functions of a Forest-officer under such provision:

"Forest-officer specially empowered:"

Ibid.

"tree" includes bamboos, stumps and brushwood:

"tree:"

Ibid.

"timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:

"timber:"

Ibid.

"forest-produce" includes the following when found in, or brought from, a forest (that is to say):—

"forest-produce."

Ibid.

'Plants' and 'seeds' added, and the words 'honey', 'wax', 'grass-oil', 'silkworms' and 'cocoons', 'shells', 'skins', 'tusks', 'bones' and 'horns' omitted.

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac and charcoal;

Act VII of 1878, s. 2.

"forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"forest-offence:"

Ibid.

'camels' omitted.

"cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"cattle:"

"river" includes also streams, canals, creeks and other channels, natural or artificial:

"river:"

New.

"Magistrate" means a Magistrate of the first or second class, or (when specially empowered by the Chief Commissioner to try forest-offences) a Magistrate of the third class.

"Magistrate."

Cf. Act XV of 1877, s. 3, cl. 2;

4. Nothing in the Burma Land and Revenue Act, 1876, shall be deemed to affect or ever to have affected any right by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another person or to the Government or anything growing in or attached to or subsisting upon the land of another person or of the Government; and

Saving of rights of profit from the Burma Land and Revenue Act, 1876.

and of ss. 20 & 21 of that Act.

nothing in this Act shall be deemed to affect the provisions of sections twenty and twenty-one of the Burma Land and Revenue Act, 1876.

CHAPTER II.

OF RESERVED FORESTS.

Cf. Act V of 1878, s. 3.

5. The Chief Commissioner may from time to time constitute any land over which no person has a right created by any grant or lease made by or in behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a reserved forest in manner hereinafter provided.

Power to reserve forests.

Cf. Act V of 1878, s. 4.

6. Whenever it is proposed to constitute any land a reserved forest, the Chief Commissioner may publish a notification in the local official Gazette—

Notification by Chief Commissioner.

(*a*) specifying the limits of such land or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) declaring that it is proposed to constitute such land a reserved forest;

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, and to deal with the same as provided in this chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person not holding any forest-office except that of Forest-Settlement-officer; but a Forest-officer may be appointed in subordination to the Forest-Settlement-officer to assist him in the inquiry prescribed by this chapter.

New.

7. When a notification has been issued under section six, the Forest-Settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

Proclamation by Forest-Settlement-officer.

(*a*) specifying the limits of the proposed forest, or describing it in such a manner that its limits shall be readily ascertainable;

(*b*) setting forth the provisions of section eight;

New.

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right mentioned in section six either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right.

Cf. Act VII of 1878, s. 5.

8. During the interval between the publication of such proclamation and the date fixed by the notification under section eighteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right was vested when the proclamation was published; and on such land, except as hereinafter provided, no new house shall be built or plantation formed, and no fresh clearings for cultivation or for any other purpose shall be made and no trees

Bar of accrual of forest-rights.

Prohibition of building, clearing, &c.

shall be cut for the purpose of trade or manufacture.

New. Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-Settlement-officer, or any clearings made for toungya cultivation by tribes or families in the habit of practising such cultivation on such land: provided that such clearings are not in contravention of any rule made under section twenty-one of the Burma Land and Revenue Act, 1876, and for the time being in force.

Cf. Act VII of 1878, s. 7. The words 'at some convenient place' omitted.

9. Inquiry by Forest-Settlement-officer. The Forest-Settlement-officer shall take down in writing all statements made under section seven, and shall inquire into all claims preferred under that section, and the existence of any rights mentioned in section six and not claimed under section seven.

New. The Forest-Settlement-officer shall at the same time consider and record any objection to any claim which the Forest-officer (if any), appointed to assist him under section six, may make.

Cf. Act VII of 1878, s. 8.

10. Powers of Forest-Settlement-officer. For the purposes of such inquiry, the Forest-Settlement-officer may exercise the following powers (that is to say):—

Wording changed. (*a*) the powers of a Demarcation-officer under The Burma Boundaries Act, 1880; and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure for compelling the attendance of witnesses and the production of documents.

Act VII of 1878, s. 9.

11. Extinction of rights not claimed. Rights in respect of which no claim has been preferred under section seven, and of the existence of which no knowledge has been acquired by enquiry under section nine, shall be extinguished, unless, before the notification under section eighteen is published, the person claiming them satisfies the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section seven.

Cf. Act VII of 1878, s. 10.

12. Power to acquire land over which right is claimed. In the case of a claim to a right in or over any land other than the following:—

(*a*) right of way,
(*b*) right to a water-course,
(*c*) right of pasture,
(*d*) right to forest-produce,

the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the Forest-Settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(i) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Cf. Act VII of 1878, ss. 11, 12 and 13. (That section relates only to the rights mentioned, cls. (c) and (d).)

13. Order on claims to rights of way, water-course, pasture or to forest-produce. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), (*c*) and (*d*) of section twelve, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Cf. Act VII of 1878, ss. 14 and 15.

14. Provision for rights of pasture or to forest-produce admitted. When the Forest-Settlement-officer admits wholly or in part any claim to a right of the kind specified in clauses (*c*) and (*d*) of section twelve, he shall, if practicable, by an order in writing, either continue such right to the claimant, or alter the limits of the proposed reserved forest, so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient, for the purposes of the claimant; and permit him to exercise his right on such land.

The order passed under this section shall record—

(*a*) the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the season during which, such pasture is permitted; or

(*b*) the quantity of timber and other forest-produce which the claimant is authorized to take or receive, the local limits within which, and the season during which, the taking of such timber or forest-produce is permitted; and

(*c*) when the exercise of such right is claimed in respect of any land or buildings, the designation, position and area of such land, and the designation and position of such buildings; and

New. (*d*) such other particulars as may be required in order to specify the nature of the right which is continued.

Cf. Act VII of 1878, ss. 12 and 13.

15. Commutation of such rights. Whenever any right of the kind specified in section twelve, clauses (*c*) and (*d*), and admitted under section thirteen, is not provided for in one of the ways prescribed in section fourteen, the Forest-Settlement-officer shall, subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf, commute such right, by paying a sum of money in lieu thereof, or with the consent of the claimant, by the grant of land or in such other manner as such officer thinks fit;

For the purpose of granting land under this section, the Forest-Settlement-officer shall be deemed to be an Assistant Commissioner in charge of a sub-division.

Cf. Act VII of 1878, s. 16.

16. Appeal from order passed under foregoing sections. Any person who has made a claim under this chapter may, within three months from the date of any order passed on such claim by the Forest-Settlement-officer under section twelve, thirteen, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Chief Commissioner may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Proviso omitted.

Act VII of 1878, s. 17.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the officer competent to hear the same.

Appeal under section 16.

Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue, and the order passed thereon by such officer shall be final:

Hearing of appeals.

Provided that every order of a Forest-Settlement-officer, and every order passed on appeal under this section, shall be subject to revision by the Chief Commissioner.

Orders of Forest-Settlement-officer, and orders on appeal, subject to Chief Commissioner's confirmation.

Act VII of 1878, s. 19.

18. When the following events have occurred (namely)—

Notification declaring forest reserved.

(*a*) the period fixed under section seven for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer; and

(*b*) if such claims have been made, the period limited by section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section twelve, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Chief Commissioner may publish a notification in the local official Gazette, specifying, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Act VII 1878, s. 20.

19. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in the manner prescribed for the proclamation under section seven.

Publication of translation of such notification in neighbourhood of forest.

VII of 8, s. 22.

20. No right of any description shall be acquired in or over a reserved forest, except by succession, or under a grant or contract in writing made by, or on behalf of, the Government, or some person in whom such right was vested when the notification under section eighteen was published.

No right acquired over reserved forest except as here provided.

Act VII of 8, s. 23.

21. Notwithstanding anything herein contained, no right continued or created under section fourteen shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner: provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house without such sanction.

Rights not to be alienated without sanction.

No timber or other forest-produce obtained in exercise of any right so continued or created shall be sold or bartered except to such extent as may be permitted by the Chief Commissioner.

22. A Forest-officer may from time to time, with the previous sanction of the Chief Commissioner or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest: provided that a substitute for the way or water-course so stopped, which the Chief Commissioner deems to be reasonably convenient, already exists, or has been provided or constructed by such Forest-officer in lieu thereof.

Power to stop ways and water-courses in reserved forest.

Cf. Act VII of 1878, s. 24.

23. Any person who in a reserved forest—

Penalties for trespass or damage in reserved forests.

(*a*) trespasses, or pastures cattle, or permits cattle to trespass;

Cf. Act VII of 1878, s. 25.

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*c*) in contravention of any rules which the Chief Commissioner may from time to time make in this behalf, hunts, shoots, fishes, poisons water, or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or when the damage resulting from his offence amounts to more than twenty-five rupees to double the amount of such damage.

24. Any person who—

Acts prohibited in such forests.

Cf. Act VII of 1878, s. 25.

(*a*) makes any fresh clearing prohibited by section eight, or

(*b*) sets fire to a reserved forest, or kindles any fire in such manner as to endanger the same,

or who, in a reserved forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered may from time to time notify in this behalf;

(*d*) fells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages the same;

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce;

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or when the damage resulting from his offence amounts to more than two hundred and fifty rupees to double the amount of such damage.

25. Nothing in section twenty-three or section twenty-four shall be deemed to prohibit (*a*) any act done by permission in writing of a Forest-officer, specially empowered or under any rule made by the Chief Commissioner in that behalf; or (*b*) the exercise of any right continued or created under section fourteen or created by grant or contract in the manner described in section twenty.

Acts excepted from prohibition contained in sections 23 and 24.

Act VII of 1878, s. 25.

26. Whenever fire is caused wilfully or by gross negligence in a reserved forest, by any person having rights in such forest or by any person in his employ-

Penalty for offences committed by persons having rights in reserved forests.

Cf. Act VII of 1878, s. 26.

ment, or whenever any person having rights in such forest contravenes the provisions of section twenty-one, the Chief Commissioner may (notwithstanding that a penalty has been inflicted under section twenty-four) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be extinguished or suspended for such period as he thinks fit.

Act VII of 1878, s. 26.

Power to declare forest no longer reserved.

27. The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

New.

Forests reserved under former rules.

28. Any forest which has been declared a reserved forest under any rules in force previous to the passing of this Act shall be deemed to have been reserved under this Act, all questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared under this Act, and all the provisions of this Act relating to reserved forests shall apply to such forest.

CHAPTER III.

OF VILLAGE-FORESTS.

New.

Constitution of village-forests.

29. The Chief Commissioner may from time to time, by notification in the local official Gazette, constitute any land over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of the Burma Land and Revenue Act, 1876, a village-forest for the benefit of any village community or group of village communities, and may by a like notification cancel any such notification:

Provided that no such notification shall be deemed to affect any teak or other trees, which the Chief Commissioner may previous to the issue of such notification have declared to be reserved.

Every such notification shall specify definitely, according to boundary-marks erected or otherwise, the limits of such village-forest.

Cf. Act VII of 1878, s. 27, para. 2.

Power to make rules for village-forests.

30. The Chief Commissioner may from time to time make rules for regulating the management of village-forests, prescribing the conditions under which the communities for the benefit of which such forests are constituted may be provided with timber or other forest-produce, or with pasture and their duties in respect of the protection and improvement of such forest.

The Chief Commissioner may, by such rules, declare any of the provisions of this Act relating to the management, protection and improvement of reserved forests to be applicable to village-forests.

New.

Saving of private rights.

31. Nothing in this chapter shall be deemed to affect any existing rights of individuals or communities in or over any land constituted a village-forest:

Power to inquire into and deal with such rights.

Provided that the Chief Commissioner may in any case inquire into and determine the existence, nature and extent of any such rights and deal with the same in the manner provided in Chapter II of this Act for reserved forests.

CHAPTER IV.

OF THE PROTECTION OF FORESTS ON GOVERNMENT LANDS NOT INCLUDED IN RESERVED OR VILLAGE-FORESTS.

Reserved trees.

32. All teak trees standing on land to which the second part of the Burma Land and Revenue Act, 1876, applies, and over which no person has a right created by any grant or lease made by or on behalf of the British Government or mentioned in section seven, eighteen, nineteen, twenty, twenty-one, forty or forty-eight of that Act, shall be reserved, and the Chief Commissioner may from time to time, by notification in the local official Gazette, declare any other trees or class of trees standing on such land to be reserved from a date fixed by such notification, and may alter or cancel any such notification.

Protection of reserved trees.

33. Except as provided by rules made by the Chief Commissioner in this behalf, or with the permission in writing of a Forest-officer specially empowered, no reserved tree may be cut, marked, lopped, girdled or injured by fire or otherwise.

Whoever cuts, marks, lops, girdles or injures by fire or otherwise any reserved tree in contravention of this section, shall be punished with fine which may extend to twenty rupees, or when the damage resulting from his offence amounts to more than ten rupees to double the amount of such damage.

Power to make rules generally.

34. The Chief Commissioner may from time to time make rules relating to the forest on the land referred to in section thirty-two.

Cf. Act VI 1878, s. 3

Such rules may—

(*a*) prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*b*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce;

(*c*) regulate or prohibit the quarrying of stone or the burning of lime or charcoal;

(*d*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such pasturing;

(*e*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares; and

(*f*) regulate the sale or free grant of timber or other forest-produce.

Penalties for acts in contravention of rules.

The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Nothing in this chapter to prohibit acts done in certain cases.

35. Nothing in this chapter or in any rule made under this chapter shall be deemed to prohibit any act done with the permission in writing of a Forest-officer specially empowered, or in the exercise of any right.

CHAPTER V.

OF THE DUTY ON TIMBER.

Cf. Act VII of 1878, s. 39.

Power to impose duty on timber.

36. The Chief Commissioner may levy a duty, in such manner, at such places, and at such rates as he may from time to time prescribe by notification in the local official Gazette, on all timber which is brought into British Burma from any place beyond the frontier of British Burma.

Power to fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, from time to time fix, by like notification, the value on which such duty shall be assessed.

Duty on certain timber floated down the Salween and Attaran.

37. On all logs cut within the limits of the Attaran and Pandau Forests and floated down the Attaran and Salween rivers, duty shall be levied at the following rates, that is to say—

On logs floated down the Attaran river:

	Rs.	A.	P.	
Above five feet in girth	4	0	0	per log.
Below „ „	2	0	0	„
Stem pieces	0	9	0	„
Ship crooks	0	4	0	„
Boat „	0	1	0	„
Small „	0	0	6	„
„ pieces	0	2	0	„

On logs floated down the Salween river:

	Rs.	A.	P.	
Above five feet in girth	2	12	0	per log.
Below „ „	1	6	0	„
Stem pieces	0	9	0	„
Ship crooks	0	4	0	„
Boat „	0	1	0	„
Small „	0	0	6	„
„ pieces	0	2	0	„

New.

Power to exempt timber from duty.

38. The Chief Commissioner may exempt any timber from duty, and may revoke such exemption.

CHAPTER VI.

OF THE CONTROL OF TIMBER IN TRANSIT.

Cf. Act VII of 1878, s. 41. 'Forest-produce' omitted.

Power to make rules to regulate transit of timber.

39. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber in transit by land or water, is vested in the Chief Commissioner, and he may from time to time make rules to regulate the transit of all timber:

Such rules may (among other matters)—

Cl. (a). (*a*) prescribe the routes by which alone timber may be imported into, exported from, or moved within, British Burma;

Cl. (b). (*b*) prohibit the import and export or moving of such timber without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

Cl. (c). (*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

New. (*d*) prohibit the loosening of timber formed into a raft or the setting adrift of any raft, by any person not the owner of such timber or raft, or not acting on behalf of the owner, or of Government;

Cl. (d). (*e*) provide for the stoppage, reporting, examination and marking of timber in transit in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

Cl. (e). 'stations' substituted for 'depôt.' (*f*) provide for the establishment and regulation of stations to which such timber shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such mark may be affixed to it; and the conditions under which such timber shall be brought to, stored at, and removed from, such station;

New. (*g*) authorize the transport of timber the property of Government across any land which is not the property of Government, and regulate the compensation to be paid for any damage done by the transport of such timber;

Cl. (f). (*h*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be obstructed;

Cl. (g). (*i*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction.

Cl. (h). 'supermarking of timber' New. (*j*) prohibit absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

Cl. (i). With additions. (*k*) regulate the use of property-marks for timber, and the registration of such marks; lay down the rules under which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

New. Nothing in this section shall be held to affect any private rights in immoveable property situate on the banks of rivers.

Cf. Act VII of 1878, s. 42.

Penalties for breach of rules made under section 39.

40. The Chief Commissioner may by such rules prescribe as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalties so prescribed.

Cf. Act VII of 1878, s. 43. 'station' substituted for 'depôt.'

Government and Forest-officers not liable for damage to timber at station.

41. The Government shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a rule made under section thirty-nine, or while detained elsewhere for the purposes of this Act; and no Forest-

officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Act VII of 1878, s. 44.

All persons bound to aid in case of accident at station.

42. In case of any accident or emergency involving danger to any property at any such station, every person employed at such station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Act VII of 1878, s. 45.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

43. All timber found adrift, beached, stranded or sunk;

all timber bearing marks which have not been registered under rules made under section thirty-nine, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and,

in such areas as the Chief Commissioner directs, all unmarked timber,

shall be deemed to be the property of Government unless and until any person establishes his right thereto as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section forty-nine, and may be brought to such stations as a Forest-officer specially empowered may from time to time notify as stations for the reception of drift-timber.

The words 'by Notification in local official Gazette' omitted.

The Chief Commissioner may exempt any class of timber from the provisions of this section, and withdraw such exemption.

Cf. Act VII of 1878, s. 46.

Notice to claimants of drift-timber.

44. Public notice shall from time to time be given by a Forest-officer specially empowered, of timber collected under section forty-three. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

'One month' substituted for 'two months.'

Act VII of 1878, s. 47.

Procedure on claim preferred to such timber.

45. When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Words 'Criminal or Revenue' omitted before 'Court.'

Act VII of 1878, s. 48.

Disposal of unclaimed timber.

46. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-four, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section forty-five, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section forty-five, in such other person, free from all incumbrances.

Act VII of 1878, s. 49.

Government and its officers not liable for damage to such timber.

47. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-three.

Act VII of 1878, s. 50.

Payments to be made by claimant before timber is delivered to him.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section forty-nine.

Act VII of 1878, s. 51.

Power to make rules and prescribe penalties.

49. The Chief Commissioner may from time to time make rules to regulate the following matters (namely) :—

(*a*) the salving, collection and disposal of all timber mentioned in section forty-three;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposing of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Chief Commissioner may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Cf. Act VII of 1878, s. 52.

Seizure of property liable to confiscation.

50. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report

Application for confiscation.

of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Change.

Provided that when no property is seized except the forest-produce with respect to which such offence is believed to have been committed and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Cf. Act VII of 1878, s. 58. Slight changes.

51. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the appearance and trial of the accused and the disposal of the property according to law.

Procedure thereupon.

Cf. Act VII of 1878, s. 54. Words 'which is not the property of Government' omitted. See sec. 50.

52. When any person is convicted of a forest-offence all timber or forest-produce in respect of which such offence has been committed, and all tools, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Act VII of 1878, s. 55.

53. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken charge of by a Forest-officer specially empowered; and in any other case may be disposed of in such manner as the Court may order.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

Cf. Act VII of 1878, s. 56. Slight changes.

54. When the offender is not known or cannot be found, the Magistrate may, on application in that behalf, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by a Forest-officer specially empowered, or to be made over to such Forest-officer or to any other person whom he deems to be entitled to the same:

Procedure when offender not known or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

New.

The Magistrate may cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or he may publish such notice in any way which he thinks fit.

Act VII of 1878, s. 57.

55. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 50.

Cf. Act VII of 1878, s. 58. Change; right of Forest-officer to appeal taken away.

56. Any person claiming to be interested in property seized under section fifty may, within one month from the date of any order passed under section fifty-two, fifty-three or fifty-four, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from orders under sections 52, 53 and 54.

Act VII of 1878, s. 59.

57. When an order for the confiscation of any property has been passed under section fifty-two or fifty-four, as the case may be, and the period limited by section fifty-six for presenting an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Property when to vest in Government.

Cf. Act VII of 1878, s. 60. The words 'and the withdrawal of any proceedings instituted' added.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section fifty and the withdrawal of any proceedings instituted in respect of such property.

Saving of power to release property seized.

Cf. Act VII of 1878, s. 61.

59. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

Last sentence new.

Any fine so imposed, or any portion thereof, may be given as compensation to the person aggrieved.

Cf. Act VII of 1878, s. 62. Slight change.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

Penalty for counterfeiting or defacing marks in trees and timber and for altering boundary-marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(*b*) unlawfully affixes a mark used by Forest-officers; or

New.

(*c*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Cf. Act VII of 1878, s. 63.

61. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Power to arrest without warrant.

Third para. of s. 63 of Indian Forest Act omitted.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case.

Act VII of 1878, s. 64.

Power to prevent commission of offence.

62. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Sec. 65 of Indian Forest Act omitted. Act VII of 1878, s. 66.

Operation of other laws not barred.

63. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act:

Provided that no person shall be punished twice for the same offence.

Cf. Act VII of 1878, s. 67. Slight change.

Power to compound offences.

64. Any Forest-officer specially empowered may accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section fifty-nine or section sixty a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

Act VII of 1878, s. 65.

Presumption that forest-produce belongs to Government.

65. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER IX.

CATTLE-TRESPASS.

Act VII of 1878, s. 69.

Cattle-trespass Act, 1871, to apply.

66. Cattle trespassing in a reserved forest or a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

Act VII of 1878, s. 70.

Power to alter fines fixed by that Act.

67. The Chief Commissioner may from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section sixty-six of this Act, such fines as he thinks fit, but not exceeding the following (that is to say):—

Clause omitted.

	Rs.	A.
For each elephant	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer ...	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	0	8

CHAPTER X.

OF FOREST-OFFICERS.

Act VII 1878, s. 71.

Chief Commissioner may invest Forest-officers with certain powers.

68. The Chief Commissioner may invest any Forest-officer by name, or as holding an office, with the following powers (that is to say):—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure;

(*d*) power to hold enquiries into forest-offences, and in the course of such enquiries to receive and record evidence.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate: provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333 or section 334 of the Code of Criminal Procedure.

Last part of proviso new.

Act VII of 1878, s. 72.

Forest-officers deemed public servants.

69. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Cf. Act VII of 1878, s. 73. The words 'or criminal section' new.

Indemnity for acts done in good faith.

70. No suit or criminal prosecution shall lie against any public servant for anything done by him in good faith under this Act.

Act VII of 1878, s. 74.

Forest-officers not to trade.

71. Except with the permission in writing of the Chief Commissioner, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or foreign territory.

CHAPTER XI.

MISCELLANEOUS.

Cf. Act VII of 1878, s. 75.

Additional powers to make rules.

72. The Chief Commissioner may from time to time make rules consistent with this Act—

(*a*) to prescribe and limit the powers and duties of any Forest-officer;

(*b*) to regulate the powers and proceedings of Forest-Settlement-officers; New.

(*c*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act; and Cl. (*c*) of s. 75 of I. F. Act omitted.

(*d*) generally to carry out the provisions of this Act. Sec. 76 of I. F. Act omitted.

Cf. Act VII of 1878, s. 77.

Rules when to have force of law.

73. All rules made by the Chief Commissioner under this Act shall be published in the local official Gazette, and shall thereupon have the force of law. Second para. omitted.

Act VII of 1878, s. 78.

Persons bound to assist Forest-officer and Police-officer.

74. Every person who exercises any right in a reserved forest or a village-forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-officer demanding his aid

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Act VII of 1878, s. 81.

75. All money payable to the Government under this Act, or under any rule made hereunder, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

Act VII of 1878, s. 82.

76. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered and retained by him until such amount has been paid.

Lien on forest produce for such money.

If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Act VII of 1878, s. 83.

77. Whenever it appears to the Chief Commissioner that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

(*See section 1.*)

ENACTMENTS REPEALED.

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII of 1865 ...	An Act to give effect to rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII of 1869...	An Act to give validity to certain rules relating to forests in British Burma.	The whole.
Act XIII of 1873	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874.	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.

STATEMENT OF OBJECTS AND REASONS.

1. The necessity for placing forest-legislation in British Burma upon a satisfactory footing has been felt for a considerable time. The present state of the law is as follows:—

The Government Forests Act (Act No. VII of 1865) is in force, but it does not provide for all requirements. That Act gave power to make rules, having the force of law, for the management and preservation of the Government forests and for the control of the timber floated down rivers. Accordingly in August, 1865, rules for the administration of forests in British Burma were promulgated. These rules, though purporting to have been made under the Government Forest Act, were not covered by its provisions, and accordingly they were legalized by Act No. VII of 1869.

In 1873 it was deemed advisable to amend and consolidate the law relating to timber floated down the rivers of Burma. Accordingly the Burma Timber Act (*No. XIII of 1873*) was passed. This Act repealed Act No. VII of 1869 and the rules legalized by that Act as far as they related to duty on timber floated down the rivers of British Burma.

The rules of August, 1865, related only to a portion of the Government forests, as defined in the rules, and it became necessary to provide by another set of rules for the administration of the forests thus excluded. This was done by rules made under Act No. VII of 1865, which were promulgated in Burma in March, 1876, together with a notification defining the areas to which they were applicable.

Thus the administration of the Government forests in Burma and the management of the timber floated down its rivers is governed by three different enactments and two sets of rules having the force of law. Yet these enactments and rules leave several of the most important matters unprovided for, and hence it is necessary both to consolidate and to complete them.

Experience has shown that the only practical method to ensure the objects aimed at by forest-administration is to set apart and demarcate selected areas of Government forests, to liberate these areas as far as possible from rights of private persons, and to guard against the growth by prescription of fresh rights in forests thus set apart and demarcated.

Forests thus set apart and demarcated are called reserved forests, and the formation of such reserved forests in British Burma has proceeded steadily during the last five years. The formation of such reserved forests is preceded by a thorough and complete enquiry by a settlement-officer into the rights and requirements of the people residing in and in the immediate vicinity of these areas. The guiding principle followed in this enquiry is that such arrangements are made as will enable the people to provide for their requirements in the matter of forest-produce, either outside the reserved forests, or, under suitable rules, within their boundaries. And in the case of the tribes whose custom it is to carry on the shifting kind of cultivation by cutting and burning the forest which is called *toungya* cultivation, defined areas are assigned to them where they may practise this kind of cultivation. Under these arrangements the formation of Government forest domains has been commenced, and their area aggregated, on 31st March last, 1,442 square miles.

The practical result of these proceedings is that the forests thus set apart and demarcated can be effectively protected and steadily improved, so that eventually a limited area will yield all the timber and other forest-produce required for home consumption and export, while the remainder can be thrown open for the use of the people and the extension of cultivation. The system here sketched enables Government to concentrate forest-conservancy upon limited areas, instead of attempting to enforce restrictions over the whole of the forests.

The procedure, however, hitherto followed in this respect in Burma, in some particulars, wants legal sanction, and hence the action of Government in setting apart reserved forests is not final, and may be called in question. The object of the present Bill is to legalize what has been done in this respect, and to lay down a procedure for the future.

3. The Indian Forest Act, which was passed in 1878, had the same object, and it must now be explained why it was not considered advisable to make the provisions of the Indian Forest Act applicable to Burma. One reason is that the procedure followed in the enquiry into, and the settlement of, forest-rights and in the demarcation of forests, as it has been developed by practical experience, is somewhat different from that prescribed by the Indian Forest Act. But this is a minor matter. The chief reason for special forest-legislation in Burma, consists in the provisions of the Burma Land and Revenue Act (Act No. II of 1876). Section 6 of that Act defines the rights in land subject to the second part of that Act, which are recognized by law, and clause (*b*) recognizes rights acquired under sections 27 and 28 of the Indian Limitation Act, 1871. The rights thus recognized are "easements" in the ordinary English acceptation of that term, including the use of light or air, way, watercourse, use of water, but not any prescriptive right by which one person is entitled to remove and appropriate, for his own profit, any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another.

The Indian Limitation Act of 1877 extended the definition of the term "easement" including in it all rights of the latter class. But it has been held that this did not affect the construction of the Burma Land and Revenue Act, and consequently the practical effect of section 6 of that Act is to deny the existence of all prescriptive rights of user of forest-produce in the forests of Burma.

But as a matter of fact there is no doubt that such rights existed in the Burma forests before the Burma Land and Revenue Act was passed, and their existence has been recognized in the enquiries which have preceded the demarcation of the existing reserved forests.

No forest-legislation for Burma could ignore these rights, and in framing the present Bill it was necessary to save them.

4. Several other important subjects have also been treated differently from the Indian Forest Act.

Thus the penalties for offences committed in reserved forests are all uniform in the Indian Forest Act, while in the present Bill it has been thought better to classify offences into two classes, and to assign to each class separate limits of punishment.

5. Again, as regards reserved forests which have already been demarcated, it is proposed, having regard to the careful investigations made at the time they were reserved, that they should be placed by the direct operation of the Act in the position of reserved forests made under the Act, instead of leaving it to the local Government, as the Indian Forest Act does, to class them as such.

6. The provisions relating to village-forests differ from the corresponding provisions in the Indian Forest Act, in as far as they give power to constitute any forest which is at the disposal of Government, a village-forest, and not only such as have already been declared reserved forests.

7. A fundamental difference between the present Bill and the Indian Forest Act is in the chapter which deals with the protection of forests on Government lands not included in reserved or village-forests. The Indian Forest Act attempts to solve this question by authorizing the constitution of protected forests. These protected forests are intended to be defined areas in which the rights of Government and of private persons are enquired into and recorded.

In Burma, where a large portion (in many districts more than three-fourths of the area) is forest, this plan would be unnecessary. It would also be impracticable. Hence the present Bill only contemplates the formation of two classes of forests—reserved forests

and village-forests. The object of the former class is to furnish timber and other useful produce for the consumption of the Province and for export, while the object of the village-forests is to ensure a permanent supply of pasture and of wood and bamboos to the villages to which such forests are assigned. And while the first step is the formation of the State forest domains, which are styled reserved forests, it is intended that the formation of village-forests shall be taken in hand gradually as the growth of population and the clearing of the forests for cultivation may render necessary the setting apart of a certain area for the use of villages.

Outside these two classes of forests the great object in Burma must be to facilitate the extension of cultivation as much as possible. Hence it would not be expedient in any way to impede or limit the extension of cultivation by the establishment of a third class analogous to the protected forests of the Indian Forest Act. What is required is, outside the reserved forests and village-forests, to give a certain protection to the teak tree and to a few other reserved kinds, and to realize revenue from the timber, bamboos and other forest-produce used for purposes of trade.

These provisions must be maintained until the demarcation of the State (reserved) and village-forests has been completed, and until the forests of these two classes have been brought to such a condition by efficient protection and steadily-continued works of improvement, that they are capable of furnishing the timber and forest-produce required for the agricultural population, for the Province generally, and for export.

This aim cannot be expected to be accomplished for many years to come. But as it is accomplished in one district after another, the restrictions imposed upon the use of the forests outside the State and village-forests may be abolished in such districts.

8. That chapter of the Indian Forest Act which authorizes Government to exercise control in certain cases, for the public good, over forests which are not the property of Government is not required in Burma, and has therefore been omitted.

9. The power to impose a duty on foreign timber (section 36) is taken from the Indian Forest Act, and the duty imposed by section 37 on timber produced in certain forests in our own territory is one which has been levied for the last thirty years.

10. In the concluding chapters, which relate to the control of timber in transit, to the collection of drift or stranded timber, to penalties, cattle trespass, forest officers and to miscellaneous matters, the Bill follows generally the Indian Forest Act.

Briefly, it may be said that the Bill now published is the Indian Forest Act of 1878, with such changes as were necessary to adapt it to the peculiar circumstances of British Burma.

The 30th December, 1880.

R. THOMPSON.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881, and was referred to a Select Committee :—

No. 2 OF 1881.

A Bill to provide for the better government of Fort William.

WHEREAS it is expedient to empower the Local Government to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Fort William Act, 1881;"

Commencement.

and it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable.

"The Fort."

2. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define, for the purposes of this Act, the limits of Fort William in Bengal, and in this Act the expression "the Fort" means the area so defined.

Local Government may make rules.

3. The Local Government may from time to time, with the like sanction and in like manner, make rules, to provide, within the Fort, for the matters specified in the schedule hereto annexed, and may by such rules prescribe as penalties for the infringement thereof, fine, which may extend to fifty rupees, or imprisonment for a term which may extend to four days or both.

When a sentence of fine is passed under any such rule, the term, for which the Court directs the offender to be imprisoned in default of payment of such fine, may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof in English and such other languages as the Local Government may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

Local Government may invest officer with power to try breaches of rules.

4. The Local Government may invest any commissioned officer in Her Majesty's Army, with power to try persons charged with any infringement of the rules made under section three.

The officer so invested is hereinafter called the Fort Magistrate.

Procedure to be followed.

5. In the case of all offences punishable under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and as nearly as may be follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877; and subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147, every finding, sentence or order of such Magistrate under this Act shall be final.

Power to arrest without warrant.

6. Any Police-officer, or any other person empowered in this behalf by the Local Government, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Power to Police-officer to release on bail.

Every person so arrested shall be taken to the Police-station within the Fort, and shall be detained there until he can be brought before the Fort Magistrate, or until he gives to the Police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before such Magistrate at a time to be specified in such bond.

See Ben. Act IV of 1866, ss. 76–78.

Jurisdiction of Presidency Magistrates and prosecutions under other laws saved.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877, or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Limitation of time of prosecutions under Act.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

9. All penalties heretofore imposed by the Garrison Quarter-master of the Fort for offences against garrison rules and regulations, shall be deemed to have been imposed in accordance with law.

Validation of penalties heretofore imposed by Garrison Quarter-master.

THE SCHEDULE.

(*See section 3*).

Cf. Act III of 1880, s. 27, cl. 6.

See sched. to Ben. draft, Nos. 1—8, 19, 24, 25, 39, 43.

1. The conservancy of the buildings, roads, drainage—channels and lands, the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, the prevention and cure of disease and the maintenance generally of the Fort in a proper sanitary condition.

2. The definition and prohibition of public nuisances and trespasses.

3. The regulation of public traffic and the picketing of animals. See sched. Ben. draft, Nos. 9—12, 34.

4. The regulation of the sale of goods and the removal of property. *ib.*, Nos. 13, 31. *ib.*, No. 41.

5. The maintenance of public peace and quiet, and the prevention of disorderly conduct. *ib.*, Nos. 14, 16, 28, 34—37.

6. The maintenance, in a neat and well-ordered state, of the buildings, roads, ramparts, parade-grounds and other parts of the Fort. *ib.*, Nos. 15, 18—26, 29, 36.

7. The apprehension, custody and trial of persons who are drunk and incapable. *ib.*, No. 27. *ib.*, No. 30.

8. The regulation of admission to, and residence in, the Fort. *ib.*, Nos. 32, 33, 48.

9. The precautions to be taken against fire. *ib.*, Nos. 39, 40.

10. The keeping of animals. *ib.*, Nos. 42, 44, 45.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for the punishment of certain petty offences when committed within the limits of Fort William. At present the Garrison Quarter-master of the Fort is in the habit of punishing camp-followers and other Natives connected with the Fort who are guilty of certain offences against the garrison rules; but the jurisdiction of this officer, though it has been long exercised, has recently been called in question. As it is necessary, on sanitary grounds and for the maintenance of order, that there should be some officer within the Fort legally empowered to punish persons guilty of acts or omissions of the nature of those now punished by the Garrison Quarter-master, the present Bill has been prepared. It is based on a draft submitted by the Government of Bengal, and comprises two main provisions: *first*, it empowers the Local Government to lay down rules with light penalties attached in respect of certain matters which correspond generally with the matters to which the present garrison rules relate; *secondly*, it provides for the appointment of a commissioned officer (to be called the Fort Magistrate) with power to try persons guilty of breaches of these rules. The other provisions of the Bill are subsidiary to these. Those that appear to call for notice here are section 7, under which the present jurisdiction of the Presidency Magistrates is saved, and section 9, which validates all punishments which may have been heretofore inflicted by the Garrison Quarter-master. Lastly, the Bill exempts from its operation all persons subject to military law as it is thought that such persons can be more fittingly punished under such law.

H. J. REYNOLDS.

The 8th January, 1881.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881 :—

WE, the undersigned Members of the Select Committee to which the Bill to regulate the importation, possession and transport of petroleum and other substances of a like nature was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Officiating Secretary to Government, Bengal, to Secretary to Government of India, Home, Revenue and Agricultural Department, No. 901, dated 15th November, 1879, and enclosures [Papers No. 1].
" Acting Secretary to Government, Bombay, to ditto, No. 820, dated 19th March, 1880, and enclosure [Papers No. 2].
" Officiating Secretary to Chief Commissioner, Assam, No. 1701, dated 2nd September, 1880 [Paper No. 3].
" Secretary to Chief Commissioner, Mysore and Coorg, No. 696-3, dated 31st August, 1880 [Paper No. 4].
" Chief Commissioner, Ajmer-Merwára, No. 647, dated 17th September, 1880 [Paper No. 5].
" Secretary for Birár to Resident, Haidarábád, No. 278, dated 22nd September, 1880 [Paper No. 6].
" Secretary to Government, North-Western Provinces and Oudh, No. 1148, dated 29th September, 1880, and enclosure [Papers No. 7].
" Chief Secretary to Government, Madras, No. 2341, dated 28th September, 1880, and enclosure [Papers No. 8].
" Secretary to Government, Panjáb, No. 3239, dated 9th October, 1880, and enclosures [Papers No. 9].
" Acting Secretary to Government, Bombay, No. 8011, dated 8th October, 1880, and enclosures [Papers No. 10].
" Secretary for Birár to Resident, Haidarábád, No. 300, dated 6th October, 1880, and enclosures [Papers No. 11].
" Officiating Secretary to Government, Bengal, No. 463T, dated 23rd October, 1880, and enclosures [Papers No. 12].
" Officiating Secretary to Chief Commissioner, British Burma, No. 7571-15-5, dated 29th October, 1880, and enclosures [Papers No. 13].
" Secretary, Chamber of Commerce, Bombay, dated 14th August, 1880, and enclosure [Papers No. 14].
Telegram from Government of Bombay, dated 7th December, 1880 [Papers No. 14].

2. We propose, in accordance with the opinion now expressed by the Government of Bengal, to do away with the distinction between first and second class petroleum introduced by the Bengal Committee. This distinction appears to us unnecessary, and its abolition will much simplify the measure by reducing the classes of petroleum to be dealt with to two, as in England, namely, dangerous petroleum and ordinary petroleum.

3. The flashing point of dangerous petroleum, as originally fixed in accordance with the recommendation of the Bengal Committee at 83° F. by Abel's test, has been objected to in many quarters as unnecessarily and inconveniently high. The Lieutenant-Governor of Bengal now proposes to reduce it to 78°; and on fully considering the papers submitted to us, we are prepared to reduce it even lower. There can be no doubt that the circumstance that the temperature of the air in most parts of India is throughout a great portion of the year higher than that which prevails in England, would, all other things being equal, make a petroleum flashing at a temperature between 70° and 80° F. more dangerous here than in England; but against this must be set off the greater openness and airiness of Indian buildings and the comparative absence of carpets, curtains and other such articles likely to catch fire; and, though at times serious accidents have occurred in this country, it can hardly be said that there is evidence to show that the danger is so serious as to warrant our extending the severe restrictions which the Bill imposes on dangerous petroleum to any petroleum flashing above the point, which has, after full consideration, been fixed upon in England and which has hitherto been adopted in Bengal. We have accordingly fixed the flashing point of dangerous petroleum at 73° F. by Abel's test equal to 100° F. by the old test.

4. We have made some other amendments in the Bill, with a view to relaxing in certain particulars the restrictions it imposes; thus, in order to avoid the delay, to which ships bringing petroleum to our ports might have been subjected if the samples furnished had to be tested before the petroleum was landed, we have altered the wording of the Bill so as to allow of the petroleum being landed directly the samples are delivered. We think that the control which the Bill gives over the petroleum when landed will be amply sufficient to secure the object in view.

5. Again, we have confined the provision of the Bill which requires petroleum to be kept in indelibly marked vessels, to *dangerous* petroleum, and we have reduced the maximum penalty

for illegally importing, possessing or transporting petroleum from three months' imprisonment and one thousand rupees fine, to one month's imprisonment and five hundred rupees fine.

6. The power given by the Bill to extend the Act to other inflammable substances appears to be unnecessarily large, and we have therefore confined it to cases in which those substances are fluid.

7. The only other alterations we have made which are of sufficient importance to call for notice here are the insertion of a provision in section 7 of the Bill as now amended, empowering the Government to fix ports at which only petroleum may be imported, the addition of a clause to section 12 entitling a dealer, whose petroleum is tested under the Act, to a copy of the certificate of the result of the testing, free of charge, the insertion in section 16 of words providing that the tins or other vessels in which confiscated petroleum is contained may be confiscated with it, and the addition of a provision in section 18 requiring all rules made under the Act to be published for a month before they take effect.

8. The Bill, with its Statement of Objects and Reasons, has been published in English, in the local official Gazettes, except those of the Central Provinces and Assam. Its publication in the vernacular Gazettes has been reported by the Governments of Bengal and the North-Western Provinces and Oudh, and the Chief Commissioner of Mysore. It has met with considerable opposition on account of its stringency, but, if the important mitigations of its provisions which we now recommend are approved by the Council, we think it may safely be passed without being again re-published. The measure having been now before the public for six months, it can hardly be said that timely notice of it has not been given to all concerned; but in order to guard against the possibility of hardship to holders or consignees of dangerous petroleum, we propose that it should not come into force till the 1st of July.

WHITLEY STOKES.
J. GIBBS.
B. W. COLVIN.
G. F. MEWBURN.

The 14th January, 1881.

No. II.

THE PETROLEUM BILL, 1881.

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THE SCHEDULE.

No. II.

A Bill to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preamble.

Preliminary.

Short title. 1. This Act may be called "The Petroleum Act, 1881"; and it shall come into force on the first day of July, 1881.

Commencement.

Committee's recommendations, para. 1.

Local extent.

The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may, from time to time, by notification in the official Gazette, direct.

Repeal of enactments.

2. The Indian Ports Act, 1875, section thirty-seven, and Bengal Act No. III of 1865 (*to make better provision for the prevention of injury from fire in Ports, and to provide for the safe keeping of Inflammable Oils in Ports and places within the Provinces under the control of the Lieutenant-Governor of Bengal*) are hereby repealed.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

34 & 35 Vic., c. 105, s. 3, with additions on Committee's report.

"Petroleum."

"Petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine and any inflammable liquid that is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum,

Committee's recommendations, para. 3.

but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred and fifty degrees of Fahrenheit's thermometer.

Committee's recommendations, para. 4.

Explanation.—The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with the apparatus and in the manner described in the Schedule hereto annexed.

"Dangerous petroleum."

"Dangerous petroleum" means petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer:

"Import."

"Import" means to bring into British India by sea or land:

and "importation" means the bringing into British India as aforesaid.

"Transport."

"Transport" means to remove from one place to another within British India:

Dangerous Petroleum.

Dangerous petroleum in quantities exceeding 40 gallons.

4. No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

Application for license to import, transport or possess such petroleum.

Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of such petroleum which it is desired to import, transport or possess, as the case may be;

(*b*) the purpose for which the applicant believes that such petroleum will be used; and

(*c*) that petroleum other than dangerous petroleum cannot be used for such purpose.

Power to grant license.

If the Local Government sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, it may grant such license for the importation, transport or possession (as the case may be) of such petroleum, absolutely or subject to such conditions as it thinks fit.

Dangerous petroleum in quantities not exceeding 10 gallons.

5. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Provided that nothing in this section shall apply in any case when the quantity of such petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware or metal vessels, each of which contains not more than a pint and is securely stopped.

34 & 35 Vic., c. 105, s. 7.

Vessels containing dangerous petroleum to be marked.

6. All dangerous petroleum—

34 & 35 Vic., c. 105, s. 6.

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels which shall bear an indelible mark or a label in conspicuous characters, stating the nature of the contents thereof.

Cf. Act I of 1878, s. 9.

Petroleum generally.

Committee's recommendations, paras. 12 to 20.

Power to make rules as to the importation of petroleum.

7. The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum and in particular—

(*a*) for ascertaining the quantity and description of any petroleum on board a ship;

(*b*) to provide for the delivery, by the master of a ship or the consignees of the cargo, of samples of petroleum before such petroleum is landed from such ship, and for the testing thereof;

(*c*) to determine the ports at which only petroleum may be imported; and

(*d*) to regulate the time and mode of, and the precautions to be taken on, landing or transhipping any petroleum.

In this section—

"Ship."

"Ship" includes anything made for the conveyance by water of human beings or property:

"Master."

"Master" includes every person (except a Pilot or Harbour Master) having for the time being the charge or control of a ship.

Possession and transport of petroleum.

8. No quantity of petroleum exceeding five hundred gallons, shall be kept by any one person or on the same premises or shall be transported except under and in accordance with the conditions of a license granted under this Act.

Power to make rules as to such possession and transport.

9. The Local Government may from time to time make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

Such rules may provide for the following among other matters, that is to say—

in the case of licenses to possess petroleum—

(*a*) the nature and situation of the premises for which they may be granted, and

(*b*) the inspection of such premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

(*c*) the manner in which the petroleum shall be packed, the mode of transit, and the route by which it is to be taken, and

(*d*) the stoppage and inspection of it during transit;

in the case of both such licenses—

(*e*) the authority by which the license may be granted;

(*f*) the fee to be charged for it;

(*g*) the quantity of petroleum it is to cover;

(*h*) the conditions which may be inserted in it;

(*i*) the time during which it is to continue in force; and

(*k*) the renewal of the license.

34 & 35 Vic., c. 105, s. 11.

Power to inspect and require dealer to sell samples.

10. Any officer specially authorized by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place, and any of the vessels, in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Ibid.

Notice to be given when officer proposes to test samples.

11. When any such officer has, in exercise of the powers conferred by section ten, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such sample or cause the same to be tested with the apparatus and in the manner described in the schedule hereto annexed, at a time and place to be fixed in such notice, and that such person or his Agent may be present at such testing.

Ibid.

Certificate as to result of such testing.

12. On any such testing if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Penalties.

Penalty for illegal importation, &c., of petroleum.

13. Any person who, in contravention of this Act or of any rules made hereunder, imports, possesses or transports any petroleum; and any person who otherwise contravenes any such rules or any condition contained in a license granted hereunder, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

34 & 35 Vic. s. 63.

Penalty for keeping, transporting or exposing for sale petroleum in contravention of section 6.

14. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not marked or labelled as prescribed by section six, shall be punished with fine which may extend to fifty rupees.

34 & 35 Vic. c. 105, s. 12.

Penalty for refusing to comply with section 10.

15. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section ten any place, or any of the vessels, in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with fine which may extend to two hundred rupees.

Cf. Act I. 1878, s. 11.

Confiscation of petroleum.

16. In any case in which an offence under section thirteen or section fourteen has been committed, the convicting Magistrate may direct that,—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting or is in possession of any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing, or transporting, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

17. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate and elsewhere by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Miscellaneous.

Rules when to have force of law.

18. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall, on the expiry of one month from the date of such publication, have the force of law:

Provided that no such rule shall be so published without the previous sanction of the Governor General in Council.

34 & 35 Vic. c. 105, s. 13.

Power to apply this Act to other fluids.

19. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by such notification fix, in substitution for the quantities of petroleum fixed by sections four, five and eight, the quantities of such fluid to which these sections shall apply.

The Governor General in Council may by a like notification cancel any notification issued under this section.

THE SCHEDULE.

Specification explanatory of the Test Apparatus.

Committee's recommendations, paras 5, and 42 & 43 Vic., c. 47.

The following is a description of the details of the apparatus :—

The oil-cup consists of a cylindrical vessel 2″ diameter, $2\frac{3}{10}$″ height (internal), with outward projecting rim $\frac{5}{10}$″ wide, $\frac{3}{8}$″ from the top and $1\frac{3}{8}$″ from the bottom of the cup. It is made of gun metal or brass (17 B. W. G.), tinned inside. A bracket, consisting of a short stout piece of wire, bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is $1\frac{1}{2}$″. The cup is provided with a close-fitting overlapping cover made of brass (22 B. W. G.) which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions, upon which it may be made to oscillate: it is provided with a spout the mouth of which is $\frac{1}{10}$″ in diameter. The socket which is to hold the thermometer is fixed at such an angle, and its length is so adjusted that the bulb of the thermometer, when inserted to its full depth, shall be $1\frac{1}{4}$″ below the centre of the lid.

The cover is provided with three square holes, one in the centre $\frac{5}{10}$″ by $\frac{4}{10}$″, and two smaller ones, $\frac{3}{10}$″ by $\frac{2}{10}$″, close to the sides and opposite each other. These three holes may be closed and uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of, and in line with, the mouth of the lamp, is fixed a white bead the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B. W. G.), an inner one of 3″ diameter and $2\frac{1}{2}$″ height, and an outer one of $5\frac{1}{2}$″ diameter and $5\frac{1}{2}$″ height; they are soldered to a circular copper plate (20 B. W. G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about $\frac{3}{8}$″, that is, its diameter is about $\frac{6}{8}$″ greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath of the oil lamp is $1\frac{1}{2}$″. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B. W. G.), flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is $6\frac{1}{2}$″. One of the three legs of the stand serves as support for the spirit lamp, attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1″.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way; it is fitted with a metal collar fitting the socket, and the part of the tube below the scale should have a length of about $3\frac{1}{2}$″ measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb $2\frac{1}{4}$″.

NOTE.—A model apparatus is deposited at the office of the Chemical Examiner to Government at Calcutta.

Directions for applying the Test.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water-bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water-bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat plaited candlewick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame which is represented by the projecting white bead on the cover of the oil cup is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65°, the samples to be tested should be cooled down (to about 60°) by immersing the bottle containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is put into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum,* which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66°, the operation of testing is to be commenced, the test flame being applied once for every rise of one degree in the following manner :—

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test apparatus to determine the flashing points of oils of very low volatility, the mode of proceeding is to be modified as follows :—

The air chamber which surrounds the cup is filled with cold water, to a depth of 1½ inches, and the heating vessel or water-bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120°, instead of with cold water.

D. FITZPATRICK,
Secy. to the Govt of India.

* This pendulum is two (2) feet in length from the point of suspension to the centre of gravity of the weight.

The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 29, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881, and was referred to a Select Committee :—

No. 2 OF 1881.

A Bill to provide for the better government of Fort William.

Preamble.

WHEREAS it is expedient to empower the Local Government to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Fort William Act, 1881;"

Commencement.

and it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable.

"The Fort."

2. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define, for the purposes of this Act, the limits of Fort William in Bengal, and in this Act the expression "the Fort" means the area so defined.

Local Government may make rules.

3. The Local Government may from time to time, with the like sanction and in like manner, make rules, to provide, within the Fort, for the matters specified in the schedule hereto annexed, and may by such rules prescribe as penalties for the infringement thereof, fine, which may extend to fifty rupees, or imprisonment for a term which may extend to four days or both.

When a sentence of fine is passed under any such rule, the term, for which the Court directs the offender to be imprisoned in default of payment of such fine, may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof in English and such other languages as the Local Government may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

Local Government may invest officer with power to try breaches of rules.

4. The Local Government may invest any commissioned officer in Her Majesty's Army, with power to try persons charged with any infringement of the rules made under section three.

The officer so invested is hereinafter called the Fort Magistrate.

Procedure to be followed.

5. In the case of all offences punishable under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and as nearly as may be follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877; and subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147, every finding, sentence or order of such Magistrate under this Act shall be final.

Power to arrest without warrant.

6. Any Police-officer, or any other person empowered in this behalf by the Local Government, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

See Ben. Act IV of 1866, ss. 76—78.

Every person so arrested shall be taken to the Police-station within the Fort, and shall be detained there until he can be brought before the Fort Magistrate, or until he gives to the Police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before such Magistrate at a time to be specified in such bond.

Power to Police-officer to release on bail.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877, or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Jurisdiction of Presidency Magistrates and prosecutions under other laws saved.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

Limitation of time of prosecutions under Act.

9. All penalties heretofore imposed by the Garrison Quarter-master of the Fort for offences against garrison rules and regulations, shall be deemed to have been imposed in accordance with law.

Validation of penalties heretofore imposed by Garrison Quarter-master.

THE SCHEDULE.

(*See section 3*).

1. The conservancy of the buildings, roads, drainage—channels and lands, the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, the prevention and cure of disease and the maintenance generally of the Fort in a proper sanitary condition. — Cf. Act III of 1880, s. 2 cl. 6. — See sched. Ben. draft, Nos. 1—8, 24, 25, 39,

2. The definition and prohibition of public nuisances and trespasses.

3. The regulation of public traffic and the picketing of animals. — See sched. Ben. draft, Nos. 9—12, 34.

4. The regulation of the sale of goods and the removal of property. — *ib.*, Nos. 13, 31. *ib.*, No. 41.

5. The maintenance of public peace and quiet, and the prevention of disorderly conduct. — *ib.*, Nos. 14, 16, 28, 34—37.

6. The maintenance, in a neat and well-ordered state, of the buildings, roads, ramparts, parade-grounds and other parts of the Fort. — *ib.*, Nos. 15, 18—26, 29, 30.

7. The apprehension, custody and trial of persons who are drunk and incapable. — *ib.*, No. 27. *ib.*, No. 30.

8. The regulation of admission to, and residence in, the Fort. — *ib.*, Nos. 32, 33, 48.

9. The precautions to be taken against fire. — *ib.*, Nos. 39, 40.

10. The keeping of animals. — *ib.*, Nos. 42, 44, 45.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for the punishment of certain petty offences when committed within the limits of Fort William. At present the Garrison Quarter-master of the Fort is in the habit of punishing camp-followers and other Natives connected with the Fort who are guilty of certain offences against the garrison rules; but the jurisdiction of this officer, though it has been long exercised, has recently been called in question. As it is necessary, on sanitary grounds and for the maintenance of order, that there should be some officer within the Fort legally empowered to punish persons guilty of acts or omissions of the nature of those now punished by the Garrison Quarter-master, the present Bill has been prepared. It is based on a draft submitted by the Government of Bengal, and comprises two main provisions: *first*, it empowers the Local Government to lay down rules with light penalties attached in respect of certain matters which correspond generally with the matters to which the present garrison rules relate; *secondly*, it provides for the appointment of a commissioned officer (to be called the Fort Magistrate) with power to try persons guilty of breaches of these rules. The other provisions of the Bill are subsidiary to these. Those that appear to call for notice here are section 7, under which the present jurisdiction of the Presidency Magistrates is saved, and section 9, which validates all punishments which may have been heretofore inflicted by the Garrison Quarter-master. Lastly, the Bill exempts from its operation all persons subject to military law as it is thought that such persons can be more fittingly punished under such law.

H. J. REYNOLDS.

The 8th January, 1881.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th January, 1881:—

WE, the undersigned Members of the Select Committee to which the Bill to regulate the importation, possession and transport of petroleum and other substances of a like nature was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Officiating Secretary to Government, Bengal, to Secretary to Government of India, Home, Revenue and Agricultural Department, No. 901, dated 15th November, 1879, and enclosures [Papers No. 1].
" Acting Secretary to Government, Bombay, to ditto, No. 820, dated 19th March, 1880, and enclosure [Papers No. 2].
" Officiating Secretary to Chief Commissioner, Assam, No. 1701, dated 2nd September, 1880 [Paper No. 3].
" Secretary to Chief Commissioner, Mysore and Coorg, No. 696-3, dated 31st August, 1880 [Paper No. 4].
" Chief Commissioner, Ajmer-Merwára, No. 647, dated 17th September, 1880 [Paper No. 5].
" Secretary for Birár to Resident, Haidarábád, No. 278, dated 22nd September, 1880 [Paper No. 6].
" Secretary to Government, North-Western Provinces and Oudh, No. 1148, dated 29th September, 1880, and enclosure [Papers No. 7].
" Chief Secretary to Government, Madras, No. 2341, dated 28th September, 1880, and enclosure [Papers No. 8].
" Secretary to Government, Panjáb, No. 3239, dated 9th October, 1880, and enclosures [Papers No. 9].
" Acting Secretary to Government, Bombay, No. 3041, dated 8th October, 1880, and enclosures [Papers No. 10].
" Secretary for Birár to Resident, Haidarábád, No. 300, dated 6th October, 1880, and enclosures [Papers No. 11].
" Officiating Secretary to Government, Bengal, No. 463T, dated 23rd October, 1880, and enclosures [Papers No. 12].
" Officiating Secretary to Chief Commissioner, British Burma, No. 7571-15-5, dated 29th October, 1880, and enclosures [Papers No. 13].
" Secretary, Chamber of Commerce, Bombay, dated 14th August, 1880, and enclosure [Papers No. 14].
Telegram from Government of Bombay, dated 7th December, 1880 [Papers No. 14].

2. We propose, in accordance with the opinion now expressed by the Government of Bengal, to do away with the distinction between first and second class petroleum introduced by the Bengal Committee. This distinction appears to us unnecessary, and its abolition will much simplify the measure by reducing the classes of petroleum to be dealt with to two, as in England, namely, dangerous petroleum and ordinary petroleum.

3. The flashing point of dangerous petroleum, as originally fixed in accordance with the recommendation of the Bengal Committee at 83° F. by Abel's test, has been objected to in many quarters as unnecessarily and inconveniently high. The Lieutenant-Governor of Bengal now proposes to reduce it to 78°; and on fully considering the papers submitted to us, we are prepared to reduce it even lower. There can be no doubt that the circumstance that the temperature of the air in most parts of India is throughout a great portion of the year higher than that which prevails in England, would, all other things being equal, make a petroleum flashing at a temperature between 70° and 80° F. more dangerous here than in England; but against this must be set off the greater openness and airiness of Indian buildings and the comparative absence of carpets, curtains and other such articles likely to catch fire; and, though at times serious accidents have occurred in this country, it can hardly be said that there is evidence to show that the danger is so serious as to warrant our extending the severe restrictions which the Bill imposes on dangerous petroleum to any petroleum flashing above the point which has, after full consideration, been fixed upon in England, and which has hitherto been adopted in Bengal. We have accordingly fixed the flashing point of dangerous petroleum at 75° F. by Abel's test equal to 100° F. by the old test.

4. We have made some other amendments in the Bill, with a view to relaxing in certain particulars the restrictions it imposes; thus, in order to avoid the delay to which ships bringing petroleum to our ports might have been subjected if the samples furnished had to be tested before the petroleum was landed, we have altered the wording of the Bill so as to allow of the petroleum being landed directly the samples are delivered. We think that the control which the Bill gives over the petroleum when landed will be amply sufficient to secure the object in view.

5. Again, we have confined the provision of the Bill which requires petroleum to be kept in indelibly marked vessels, to *dangerous* petroleum, and we have reduced the maximum penalty

for illegally importing, possessing or transporting petroleum from three months' imprisonment and one thousand rupees fine, to one month's imprisonment and five hundred rupees fine.

6. The power given by the Bill to extend the Act to other inflammable substances appears to be unnecessarily large, and we have therefore confined it to cases in which those substances are fluid.

7. The only other alterations we have made which are of sufficient importance to call for notice here are the insertion of a provision in section 7 of the Bill as now amended, empowering the Government to fix ports at which only petroleum may be imported, the addition of a clause to section 12 entitling a dealer, whose petroleum is tested under the Act, to a copy of the certificate of the result of the testing, free of charge, the insertion in section 16 of words providing that the tins or other vessels in which confiscated petroleum is contained may be confiscated with it, and the addition of a provision in section 18 requiring all rules made under the Act to be published for a month before they take effect.

8. The Bill, with its Statement of Objects and Reasons, has been published in English, in the local official Gazettes, except those of the Central Provinces and Assam. Its publication in the vernacular Gazettes has been reported by the Governments of Bengal and the North-Western Provinces and Oudh, and the Chief Commissioner of Mysore. It has met with considerable opposition on account of its stringency, but, if the important mitigations of its provisions which we now recommend are approved by the Council, we think it may safely be passed without being again re-published. The measure having been now before the public for six months, it can hardly be said that timely notice of it has not been given to all concerned; but in order to guard against the possibility of hardship to holders or consignees of dangerous petroleum, we propose that it should not come into force till the 1st of July.

WHITLEY STOKES.
J. GIBBS.
B. W. COLVIN.
G. F. MEWBURN.

The 14th January, 1881.

No. II.

THE PETROLEUM BILL, 1881.

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THE SCHEDULE.

No. II.

A Bill to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preamble.

Preliminary.

Short title. 1. This Act may be called "The Petroleum Act, 1881"; and it shall come into force on the first day of July, 1881.

Commencement.

Committee recommendations, para

The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may, from time to time, by notification in the official Gazette, direct.

Local extent.

2. The Indian Ports Act, 1875, section thirty-seven, and Bengal Act No. III of 1865 (*to make better provision for the prevention of injury from fire in Ports, and to provide for the safe keeping of Inflammable Oils in Ports and places within the Provinces under the control of the Lieutenant-Governor of Bengal*) are hereby repealed.

Repeal of enactments.

3. In this Act, unless there is something repugnant in the subject or context,—

Interpretation-clause.

34 & 35 Vic., c. 105, s. 3, with additions from Committee's report.

"Petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine and any inflammable liquid that is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum,

"Petroleum."

Committee's recommendations, para. 3.

but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred and fifty degrees of Fahrenheit's thermometer.

Committee's recommendations, para. 4.

Explanation.—The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with the apparatus and in the manner described in the Schedule hereto annexed.

"Dangerous petroleum" means petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer:

"Dangerous petroleum."

"Import" means to bring into British India by sea or land:

"Import."

and "importation" means the bringing into British India as aforesaid.

"Transport" means to remove from one place to another within British India.

"Transport."

Dangerous Petroleum.

4. No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

Dangerous petroleum in quantities exceeding 40 gallons.

Application for license to import, transport or possess such petroleum.

Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of such petroleum which it is desired to import, transport or possess, as the case may be;

(*b*) the purpose for which the applicant believes that such petroleum will be used; and

(*c*) that petroleum other than dangerous petroleum cannot be used for such purpose.

Power to grant license.

If the Local Government sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, it may grant such license for the importation, transport or possession (as the case may be) of such petroleum, absolutely or subject to such conditions as it thinks fit.

5. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Dangerous petroleum in quantities not exceeding 40 gallons.

Provided that nothing in this section shall apply in any case when the quantity of such petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware or metal vessels, each of which contains not more than a pint and is securely stopped.

34 & 35 Vic. c. 105, s. 7.

Vessels containing dangerous petroleum to be marked.

6. All dangerous petroleum—

34 & 35 Vic., c. 105, s. 6.

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels which shall bear an indelible mark or a label in conspicuous characters, stating the nature of the contents thereof.

Cf. Act I of 1878, s. 9.

Petroleum generally.

7. The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum and in particular—

Committee's recommendations, paras. 11 to 20.

Power to make rules as to the importation of petroleum.

(*a*) for ascertaining the quantity and description of any petroleum on board a ship;

(*b*) to provide for the delivery, by the master of a ship or the consignees of the cargo, of samples of petroleum before such petroleum is landed from such ship, and for the testing thereof;

(*c*) to determine the ports at which only petroleum may be imported; and

(*d*) to regulate the time and mode of, and the precautions to be taken on, landing or transhipping any petroleum.

In this section—

"Ship" includes anything made for the conveyance by water of human beings or property:

"Ship."

"Master" includes every person (except a Pilot or Harbour Master) having for the time being the charge or control of a ship.

"Master."

8. No quantity of petroleum exceeding five hundred gallons, shall be kept by any one person or on the same premises or shall be transported except under and in accordance with the conditions of a license granted under this Act.

Possession and transport of petroleum.

9. The Local Government may from time to time make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

Power to make rules as to such possession and transport.

Such rules may provide for the following among other matters, that is to say—

in the case of licenses to possess petroleum—

(*a*) the nature and situation of the premises for which they may be granted, and

(*b*) the inspection of such premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

(*c*) the manner in which the petroleum shall be packed, the mode of transit, and the route by which it is to be taken, and

(*d*) the stoppage and inspection of it during transit;

in the case of both such licenses—

(*e*) the authority by which the license may be granted;

(*f*) the fee to be charged for it;

(*g*) the quantity of petroleum it is to cover;

(*h*) the conditions which may be inserted in it;

(*i*) the time during which it is to continue in force; and

(*k*) the renewal of the license.

34 & 35 Vic., c. 105, s. 11.

Power to inspect and require dealer to sell samples.

10. Any officer specially authorized by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place, and any of the vessels, in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Ibid.

Notice to be given when officer proposes to test samples.

11. When any such officer has, in exercise of the powers conferred by section ten, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such sample or cause the same to be tested with the apparatus and in the manner described in the schedule hereto annexed, at a time and place to be fixed in such notice, and that such person or his Agent may be present at such testing.

Ibid.

Certificate as to result of such testing.

12. On any such testing if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Penalties.

Penalty for illegal importation, &c., of petroleum.

13. Any person who, in contravention of this Act or of any rules made hereunder, imports, possesses or transports any petroleum; and any person who otherwise contravenes any such rules or any condition contained in a license granted hereunder, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

34 & 35 Vic. c. 63.

Penalty for keeping, transporting or exposing for sale petroleum in contravention of section 6.

14. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not marked or labelled as prescribed by section six, shall be punished with fine which may extend to fifty rupees.

34 & 35 Vic. c. 105, s. 12.

Penalty for refusing to comply with section 10.

15. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section ten any place, or any of the vessels, in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with fine which may extend to two hundred rupees.

Cf. Act I of 1878, s. 11.

Confiscation of petroleum.

16. In any case in which an offence under section thirteen or section fourteen has been committed, the convicting Magistrate may direct that,—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting or is in possession of any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing, or transporting, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

17. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate and elsewhere by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Miscellaneous.

Rules when to have force of law.

18. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall, on the expiry of one month from the date of such publication, have the force of law:

Provided that no such rule shall be so published without the previous sanction of the Governor General in Council.

34 & 35 Vic. c. 105, s. 14.

Power to apply this Act to other fluids.

19. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by such notification fix, in substitution for the quantities of petroleum fixed by sections four, five and eight, the quantities of such fluid to which these sections shall apply.

The Governor General in Council may by a like notification cancel any notification issued under this section.

THE SCHEDULE.

Specification explanatory of the Test Apparatus.

mmittee's commenda- ns, para. 5, d 42 & 43 ., c. 47.

The following is a description of the details of the apparatus :—

The oil-cup consists of a cylindrical vessel 2″ diameter, $2\frac{3}{10}$″ height (internal), with outward projecting rim $\frac{5}{10}$″ wide, $\frac{3}{8}$″ from the top and $1\frac{1}{4}$″ from the bottom of the cup. It is made of gun metal or brass (17 B. W. G.), tinned inside. A bracket, consisting of a short stout piece of wire, bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is $1\frac{1}{4}$″. The cup is provided with a close-fitting overlapping cover made of brass (22 B. W. G.) which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions, upon which it may be made to oscillate : it is provided with a spout the mouth of which is $\frac{1}{16}$″ in diameter. The socket which is to hold the thermometer is fixed at such an angle, and its length is so adjusted that the bulb of the thermometer, when inserted to its full depth, shall be $1\frac{1}{4}$″ below the centre of the lid.

The cover is provided with three square holes, one in the centre $\frac{5}{10}$″ by $\frac{4}{10}$″, and two smaller ones, $\frac{3}{10}$″ by $\frac{3}{10}$″, close to the sides and opposite each other. These three holes may be closed and uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of, and in line with, the mouth of the lamp, is fixed a white bead the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B. W. G.), an inner one of 3″ diameter and $2\frac{1}{2}$″ height, and an outer one of $5\frac{1}{2}$″ diameter and $5\frac{3}{4}$″ height; they are soldered to a circular copper plate (20 B. W. G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about $\frac{3}{8}$″, that is, its diameter is about $\frac{3}{4}$″ greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath of the oil lamp is $1\frac{1}{4}$″. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B. W. G.), flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is $6\frac{1}{4}$″. One of the three legs of the stand serves as support for the spirit lamp, attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1″.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way ; it is fitted with a metal collar fitting the socket, and the part of the tube below the scale should have a length of about $3\frac{1}{2}$″ measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb $2\frac{1}{2}$″.

NOTE.—A model apparatus is deposited at the office of the Chemical Examiner to Government at Calcutta.

Directions for applying the Test.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water-bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication ; or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water-bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat plaited candlewick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame which is represented by the projecting white bead on the cover of the oil cup is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65°, the samples to be tested should be cooled down (to about 60°) by immersing the bottle containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is put into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum,* which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66°, the operation of testing is to be commenced, the test flame being applied once for every rise of one degree in the following manner:—

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test apparatus to determine the flashing points of oils of very low volatility, the mode of proceeding is to be modified as follows:—

The air chamber which surrounds the cup is filled with cold water, to a depth of 1½ inches, and the heating vessel or water-bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120°, instead of with cold water.

D. FITZPATRICK,
Secy. to the Govt. of India.

* This pendulum is two (2) feet in length from the point of suspension to the centre of gravity of the weight.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st January, 1881 :—

WE, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have had the report of the Indian Law Commissioners, 1879, duly communicated to us. We have carefully considered so much of it as relates to the present Bill, as well as the papers noted in the margin, and, in compliance with the wish of the Secretary of State for India, as expressed in his despatch (Legislative), No. 37, dated 7th October, 1880, we have the honour to submit this our fourth report.

From Secretary, Chamber of Commerce, Madras, dated 1st August, 1878, and enclosure [Papers No. 56]

" Acting Chief Secretary to Government, Madras, No. 299, dated 14th February, 1879, and enclosures [Papers No. 58].

" Ditto, ditto, ditto, No. 1343, dated 7th June, 1879, and enclosures [Papers No. 59].

" J. Crawfurd, Esq., Registrar, High Court, Calcutta, No. 1123, dated 27th June, 1879 [Paper No. 60].

Note by Sir Charles Turner, Chief Justice, Madras, dated 22nd January, 1880 [Paper No. 61].

From Seth Lachman Dás, Muttra, dated 1st January, 1881 [Paper No. 62].

2. We agree with the Commissioners that uniformity of practice is particularly desirable in matters relating to negotiable paper, and, to facilitate the assimilation of the practice of shroffs to that of European merchants, we have declared (section 1) that local usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by the proposed Act.

3. We have inserted explanations calculated to prevent doubts as to when a promise or order to pay is "conditional," when the sum payable is "certain," and when the person to whom the direction is given or payment is to be made is "a certain person," within the meaning of sections 4 and 5.

4. We have re-drawn section 20 as to inchoate stamped instruments, so as to make it express more accurately what we conceive to be the law on this subject.

5. We have also re-drawn sections 47 and 48 (as follows) :—

Negotiable instrument made, &c., without consideration.

"43. A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

"*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed, can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

"*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full, shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed."

6. We have prefixed to the sections relating to negotiation clauses (section 46) relating to delivery generally, and to the effect recommended by the Commissioners.

7. We think the section (67, now 63) relating to the drawee's time for deliberation should provide that the holder of a bill "must, if so required by the drawee," allow him twenty-four hours (exclusive of public holidays) to consider whether he will accept, and we have amended this section accordingly.

8. We have made (section 76) presentment for payment unnecessary as against any party sought to be charged, if he has engaged to pay notwithstanding non-presentment.

9. We have in section 90 (now 86) substituted "qualified" for "conditional" and added a paragraph shewing when an acceptance is qualified.

10. We have provided (section 90) for the extinguishment of rights of action on a negotiated bill held, at or after maturity, by the acceptor in his own right.

11. We agree with Sir C. Turner that section 108 of the Bill in its fourth form—as to reasonable time for presentment—should be omitted. It seems inconsistent with section 107 (now 105), and declares a rule which is not only stricter than the existing law, but would, in our opinion, be highly inconvenient.

12. We have inserted a statement of the procedure in the case of an acceptance *supra protest*, and to section 112 (now 109) we have prefixed a clause shewing how acceptance for honour must be made.

13. We have declared (section 116) that a drawee in case of need may accept and pay the bill without previous protest.

14. We have made it appear that inland (as well as foreign) bills may be drawn in sets, and altered Chapter XIV (now XV) accordingly. We have made the exception to section 126 (now 132) run thus:—

"*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he *and the subsequent indorser of each part* are liable on such part as if it were a separate bill."

15. We have amended the second clause of section 125 (now 130, 131) (as to the non-liability of a banker who has received payment for a customer of a crossed cheque) in accordance with *Matthiessen* v. *London and County Banking Company*, 48 L. J. C. P. 529.

16. We have made most of the changes in arrangement and wording advised by the Commissioners, and recommend that the Bill as now revised be passed. It has now been more than thirteen years before the Council of the Governor General; it has been redrawn, copiously criticised and repeatedly revised; and without the experience derived from its actual operation, it is not likely to be further improved. But it should be published in the Gazettes, and, according to the orders of the Secretary of State, it must, before being passed, be sent to the Local Governments, translated into the vernaculars and submitted to him with this report.

WHITLEY STOKES.
B. W. COLVIN.
J. PITT KENNEDY.
G. C. PAUL.

The 20th January, 1881.

No. V.

THE NEGOTIABLE INSTRUMENTS BILL, 1881.

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SCHEDULE.

No. V.

A Bill to Define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble.

WHEREAS it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Negotiable Instruments Act, 1881:" Bill II, s. 1. Bill III, s. 2.

Local extent.

It extends to the whole of British India; but nothing herein contained affects the Indian Paper Currency Act, 1871, section twenty-one, or affects any local usage relating to any instrument in an oriental language: Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act;

Saving of usages relating to hundis, &c.

Commencement.

and it shall come into force on the first day of January, 1882.

Repeal of enactments.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. Bill II, s. 2. Bill III, s. 3.

Interpretation-clause.

3. In this Act—

"Banker."

"Banker" includes also persons or a corporation or company acting as bankers; and Bill II, s. 3. Bill III, s. 2. 39 & 40 Vic. c. 81, s. 3.

"Notary Public."

"Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note.

4. A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument. Bill II, s. 4. Bill III, s. 4. Byles on Bills (12th edn.) pp. 5, 10. 3 & 4 Anne c. 9 (Byles 481). Byles 5, 10. Byles 93. Byles 6.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received."

(*c*) "Mr. B, I O U Rs. 1,000."

(*d*) "I promise to pay B Rs. 500 and all other sums which shall be due to him."

(*e*) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."

(*f*) "I promise to pay B Rs. 500 seven days after my marriage with L."

(*g*) "I promise to pay B Rs 500 on D's death, provided D leaves me enough to pay that sum."

(*h*) "I promise to pay B Rs 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (*a*) and (*b*) are promissory notes. The instruments respectively marked (*c*), (*d*), (*e*), (*f*), (*g*) and (*h*) are not promissory notes.

Bill II, s. 5: Bill III, s. 5: Byles 1, 75: 81, 94, 97: Byles 93, 94, 96: Byles 75, 81.

5. A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

"Bill of exchange."

A promise or order to pay is not "conditional," within the meaning of this section and section four, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this section and section four, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section four, although he is mis-named or designated by description only.

Bill II, s. 6: Bill III, s. 5: Byles 13.

6. A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Cheque."

Draft, s. 6: Bill II, s. 7: Bill III, s. 7.

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawer."
"Drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Drawee in case of need."

Draft, ss. 6, 57: Byles 196: Act VI of 1840, s. 2: Act V of 1866, s. 11: See 41 Vic., s. 13.

After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor."

When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Acceptor for honour."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Payee."

Draft, s. 6: Bill II, s. 8: Bill III, s. 8: Byles 2.

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

"Holder."

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

Draft, s. 12: Bill II, s. 9: Bill III, s. 9: 1 Parsons 25: Byles 164.

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer,

"Holder in due course."

or the payee or indorsee thereof, if payable to, or to the order of, a payee,

before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

Draft, ss. 86, 115: Bill II, s. 10: Bill III, s. 10: Byles on Bills (12th edition) 221: 39 & 40 Vic., c. 81, s. 11.

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

"Payment in due course."

Bill II, s. 11: Bill III, s. 11: Act V of 1866, s. 12.

11. A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

"Inland instrument."

Bill II, s. 12: Bill III, s. 12.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Foreign instrument."

Draft, s. 5: Bill II, s. 13: Bill III, s. 13.

13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof.

"Negotiable instrument."

Draft, s. 7: Bill II, s. 14: Bill III, s. 14.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

"Negotiation."

Draft, s. 20: Bill II, s. 15: Bill III, s. 15: *Denton* v. *Peters*, L. R. 5 Q. B. 475: *Ex parte Cote* L. R. 9 Ch. App. 27: Byles 165: Byles 150.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

"Indorsement."

Bill II, s. 16: Bill III, s. 16.

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

"Indorsement "in blank" and "in full."

"Indorsee."

Bill II, s. 17: Bill III, s. 17: Byles 91: Bayley (6th edition) 8.

Ambiguous instruments.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Draft, s. 2: Bill II, s. 18: Bill III, s. 18: Byles 84: Bayley 13 (*Saunderson* v. *Piper*).

Where amount is stated differently in figures and words.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

Bill II, s. 19: Bill III, s. 19: 1 Parsons 271: Byles 18, 212: *Aldous* v. *Cornwell*, L. R. 3 Q. B. 573.

Instruments payable on demand.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Bill II, s. 20: Bill III, s. 20: Byles 88, 165, 188: *Foster* v. *Mackinnon*, L. R. 4 C. P. 704: Byles 84.

Inchoate stamped instruments.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in British India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *primâ facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

Bill II, s. 22: Bill III, s. 22: Byles 80, 180, 206, 209, 528: 34 & 35 Vic., c. 74, s. 2.

"At sight." "On presentment." "After sight."

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

Draft, s. 78: Bill II, s. 22: Bill III, s. 23.

"Maturity."

22. The maturity of a promissory note or bill of exchange is the date at which it falls due.

New.

Days of grace.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight, or on presentment, is at maturity on the third day after the day on which it is expressed to be payable.

Draft, s. 79: Bill II, s. 24: Bill III, s. 24: Byles 206.

Calculating maturity of bill or note payable so many months after date or sight.

23. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*). A negotiable instrument, dated 29th January, 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878.

(*b*). A negotiable instrument, dated 30th August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(*c*). A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

Draft, s. 80: Bill II, s. 25: Bill III, s. 25: Byles 206.

Calculating maturity of bill or note payable so many days after date or sight.

24. In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

Draft, s. 80: Bill II, s. 26: Bill III, s. 26: Byles 208.

When day of maturity is a holiday.

25. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday.

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

Bill II, s. 28: Bill III, s. 28: Sec 37 & 38 Vic., c. 62. s. 1 (Byles 529): Byles 59.

Capacity to make, &c., promissory notes, &c.

26. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Byles 61.

Minor.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

Bill II, s. 27: Bill III, s. 27: Byles 31.

Agency.

27. Every person capable of binding himself or of being bound, as mentioned in section twenty-six, may so bind himself or be bound by a duly authorized agent acting in his name.

Byles 32.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

Byles 33.

An authority to draw bills of exchange does not of itself import an authority to indorse.

Draft, s. 15: Bill II, s. 4: Bill III, s. 3.

Liability of agent signing.

28. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the

Act IX of 1872, s. 234.

instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Byles 57: Bill III, s. 31.

29. Liability of legal representative signing. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

Draft, ss. 17, 78: Bill II, s. 44: Bill III, s. 34: Byles 8, 245: Bayley 43: Byles 290.

30. Liability of drawer. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder under Chapter XII, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Bill II, s. 45: Bill III, s. 35: Byles 8, 19, 185: Chitty 56: Grant on Bankers, 51: *Gray* v. *Johnston*, L. R. 3 E. and I. App. 1.

31. Liability of drawee of cheque. The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque, must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

Draft, ss. 60, 65: Bill II, s. 46: Bill III, s. 36: Byles 190, 193: Draft, s. 60: Bayley 44: Byles 910.

32. Liability of maker of note and acceptor of bill. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him, and caused by such default.

Draft, s. 61: Bill II, s. 47: Bill III, s. 37: Byles 187, 193.

33. Only drawee can be acceptor except in need or for honour. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Draft, s. 59: Bill II, s. 41: Bill III, s. 32.

34. Acceptance by several drawees not partners. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Draft, ss. 28, 37 (para. 46, 64, 65, and 98: Bill II, s. 48: Bill III, s. 38: Byles 153, 295: *Robertson* v. *Kensington*, 4 Taunt. 30: Byles 152, 195: *Rae* v. *Hope*, 30 L. J. C. P. 75: *Horne* v. *Rouquette*, 3 Q. B. Div. 514.

35. Liability of indorser. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Draft, s. 44.

Every indorser after dishonour is liable as upon an instrument payable on demand.

36. Liability of prior parties to holder in due course. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Draft, ss. 71: Bill II, s. Bill III, Byles 166 *O'Keefe* v. *Dunn*, 6 Taunt. 30 M. & S. 2

37. Maker, drawer and acceptor principals. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

Bill II, s. Bill III, s. Byles 245.

38. Prior party a principal in respect of each subsequent party. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Bill II, s. 5 Bill III, s. Byles 245.

Illustration.

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

39. Suretyship. When the holder of an accepted bill of exchange enters into any contract with the acceptor which under section 134 or 135 of the Indian Contract Act, 1872, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

Bill II, s. 52: Bill III, s. 42: *Owen* v. *Homan*, 4 H. L. Cas. 97: *Muir* v. *Crawford*, L. R. 2 Sc. App. 456.

40. Discharge of indorser's liability. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Draft, s. 100: Bill II, s. 53: Bill III, s. 43: cf. Act IX of 1872, s. 137.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement, "B."
Second indorsement, "Peter Williams."
Third indorsement, "Wright and Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

41. Acceptor bound, although indorsement forged. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Draft, s. 36: Bill II, s. 58: Bill III, s. 47: Byles 200, 201.

42. Acceptance of bill drawn in fictitious name. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Bill II, s. 59: Bill III, s. 48: Byles 201: *Cooper* v. *Meyer*, 10 B. & C. 468: Act I of 1872, s. 117.

New.

Negotiable instrument made, &c., without consideration.

43. A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Exception I.—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed, can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full, shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

Draft, s. 54: Bill II, s. 62: Bill III, s. 51: Byles 130.

Partial absence or failure of money-consideration.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Draft, s. 55: Bill II, s. 63: Bill III, s. 52.

Partial failure of consideration not consisting of money.

45. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

CHAPTER IV.

OF NEGOTIATION.

Delivery.

46. The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument, or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

Draft, s. 18: Bill II, s. 64: Bill III, s. 53: Byles 148.

Negotiation by delivery.

47. Subject to the provisions of section fifty-eight, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustrations.

(*a*). A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated. Byles 148, note (*i*).

(*b*). A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Draft, s. 19: Bill II, s. 65: Bill III, s. 54: *Denton* v. *Peters*, L. R. 5 Q. B. 475: *Exparte* Co L. R. 9 C. App. 27.

Negotiation by indorsement.

48. Subject to the provisions of section fifty-eight, a promissory note, bill of exchange or cheque payable to the order of a specified person, or to a specified person or order, is negotiable by the holder by indorsement and delivery thereof.

Draft, s. 31: Bill II, s. Bill III, s. Byles 150, 151.

Conversion of indorsement in blank into indorsement in full.

49. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Draft, ss. 30: Bill II, ss. 70: Bill III, ss. 58, 59: Byles 153.

Effect of indorsement.

50. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Illustrations.

B signs the following indorsements on different negotiable instruments payable to bearer:—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

Draft, ss. 20, 24, 27: Bill II, s. 71: Bill III, s. 60.

51. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded, as mentioned in section fifty indorse and negotiate the same.

Who may negotiate.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

Draft, ss. 32, 34: Bill II, s. 72: Bill III, s. 61: Byles 153, 157.

52. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event, although such event may never happen.

Indorser who excludes his own liability or makes it conditional.

Draft, s. 45.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a*) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse."

Upon this indorsement he incurs no liability.

(*b*) A is the payee and holder of a negotiable instrument. Excluding personal liability by an endorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

Draft, s. 40: Bill II, s. 73: Bill III, s. 64.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder deriving title from holder in due course.

Draft, s. 25: Bill II, s. 74: Bill III, s. 63.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

Draft, s. 39: Bill II, s. 75: Bill III, s. 64.

55. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Conversion of indorsement in blank into indorsement in full.

Draft, s. 23: Bill II, s. 76: Bill III, s. 65: Byles 172.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but where such amount has been partly paid, a note to that effect may be endorsed on the instrument, which may then be negotiated for the balance.

Indorsement for part of sum due.

Draft, s. 22: Bill II, s. 78: Bill III, s. 67: Byles 174.

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

Draft, ss. 58: Bill II, s. Bill III, s. Byles 122, 164.

58. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument obtained by unlawful means or for unlawful consideration.

Draft, s. and part s. 52: Bill II, s. Bill III, s. Byles 166, 168.

59. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor:

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

Draft, ss. 84: Bill II, s. Bill III, s. Byles 170.

60. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

Draft, s. 56: Bill II, s. 82: Bill III, s. 71.

61. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business-hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

Walker v. *Mcdonald*, 2 Ex. 532: *Leonard* v. *Wilson*, 2 Cr. & M. 592: Byles 180 to 182.

Byles 184.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

Byles 183, 184.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Bill II, s. 83 Bill III, s. 72

62. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can

Presentment of promissory note for sight.

after reasonable search be found) by a person entitled to demand payment, within a reasonable time after it is made and in business-hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Draft, s. 56: Bill II, s. 84: Bill III, s. 78: Byles 183.

Drawee's time for deliberation.

63. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee twenty-four hours (exclusive of public holidays) to consider whether he will accept it.

Draft, s. 133: Bill II, s. 85: Bill III, s. 74.

Presentment for payment.

64. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Byles 216.

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

Bill II, s. 86: Bill III, s. 75: Draft, s. 137: Byles 213.

Hours for presentment.

65. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Draft, s. 138: Bill II, s. 87: Bill III, s. 76. Byles 208, 213.

Presentment for payment of instrument payable after date or sight.

66. A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

Bill II, s. 88: Bill III, s. 77: Byles 7.

Presentment for payment of promissory note payable by instalments.

67. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Draft, s. 138: Bill II, s. 89: Bill III, s. 78: Act VI of 1840, s. 1: 1 & 2 Geo. IV, c. 78 (Byles 490).

Presentment for payment of instrument payable at specified place and not elsewhere.

68. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Draft, ss. 139, 140: Bill II, s. 90: Bill III, s. 79: Byles 214.

Instrument payable at specified place.

69. A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Draft, ss. 139, 140, 142: Bill II, s. 91: Bill III, s. 80. Byles 214, 216.

Presentment where no exclusive place specified.

70. A promissory note or bill of exchange, not made payable as mentioned in sections sixty-eight and sixty-nine, must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Draft, s. 141: Bill II, s. 92: Bill III, s. 81.

Presentment when maker, &c., has no known place of business or residence.

71. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Bill II, s. 93: Bill III, s. 82: Byles 21, 210.

Presentment of cheque to charge drawer.

72. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Byles 20.

Bill II, s. 94: Bill III, s. 83: Byles 21.

Presentment of cheque to charge any other person.

73. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Draft, s. 134: Bill II, s. 95: Bill III, s. 84: Byles 211.

Presentment of instrument payable on demand.

74. Subject to the provisions of section thirty-one, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Bill II, s. 96: Bill III, s. 85: Parsons 500.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

75. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee.

Draft, ss. 89, 91: Bill II, s. 98: Bill III, s. 86: Byles 218.

When presentment unnecessary.

76. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:—

(*a*) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument,

or, if the instrument being payable at his place of business, he closes such place on a business day during the usual business-hours, or

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business-hours, or

if the instrument not being payable at any specified place, he cannot after due search be found;

(*b*) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;

(*c*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(*d*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

Terry v. *Parker*, 6 Ad. & E. 502: *Wirth* v. *Austin*, L. R. 10 C. P. 689.

Draft, s. 83: Bill II, s. 99: Bill III, s. 87: Byles 197.

Liability of banker for negligently dealing with bill presented for payment.

77. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI.

OF PAYMENT AND INTEREST.

78. Subject to the provisions of section eighty-two, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

79. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when rate specified.

80. When no rate of interest is specified in the instrument, interest on the amount due thereon shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when no rate specified.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

81. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

82. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

Discharge from liability—

(*a*) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by cancellation;

(*b*) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by release;

(*c*) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

by payment.

83. If the holder of a bill of exchange allows the drawee more than twenty-four holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

84. When the holder of a cheque fails to present it for payment within a reasonable time, and the drawer thereof sustains loss or damage from such failure, he is discharged from liability to the holder.

When cheque not duly presented and drawer damaged thereby.

85. Where a cheque payable to order, purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

86. If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder, they assent to such acceptance.

Parties not consenting discharged by qualified or limited acceptance.

Explanation.—An acceptance is qualified—

(*a*) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated;

(*b*) where it undertakes the payment of part only of the sum ordered to be paid;

(*c*) where, no place of payment being specified on the order, it undertakes the payment at a specified place and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere;

(*d*) where it undertakes the payment at a time other than that at which under the order it would be legally due.

87. Save as provided in sections twenty, forty-nine, eighty-six and one hundred and twenty-five, any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

Effect of material alteration.

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

Alteration by indorsee.

The provisions of this section are subject to those of sections twenty, forty-nine, eighty-six and one hundred and twenty-five.

88. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

Draft, s. 115: Bill II, s. 113: Bill III, s. 100: 39 & 40 Vic., c. 81, s. 11.

Payment of instrument on which alteration is not apparent.

89. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered, or the cheque crossed.

Extinguishment of rights of action on bill in acceptor's hands.

90. If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

Draft, s. 33: Bill II, s. 114: Bill III, s. 101: Byles 187.

Dishonour by non-acceptance.

91. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

Bill II, s. 115: Bill III, s. 102.

Dishonour by non-payment.

92. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

Draft, ss. 125, 127, 131: Bill II, s. 116: Bill III, s. 103: Byles 273. Byles 288. Byles 293. Byles 290.

By and to whom notice should be given.

93. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

Draft, ss. 126, 127, 128, 130: Bill II, s. 117: Bill III, s. 104: Byles 274, 275. Byles 280. Held in America notice must be signed, 1 Parsons 506. Re Bellhouse, L. R. 4 Ch. Div. 795. Draft, s. 126. Byles 283.

Mode in which notice may be given.

94. Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

Draft, s. 131: Bill II, s. 118: Bill III, s. 105.

Party receiving must transmit notice of dishonour.

95. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section ninety-three.

Draft, s. 132: Bill II, s. 119: Bill III, s. 106: Byles 286.

Agent for presentment.

96. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Draft, s. 130: Draft 2: Bill II, s. 120: Bill III, s. 107.

When party to whom notice given is dead.

97. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

Draft, s. 92: Bill II, s. 121: Bill III, s. 108: Byles 296

When notice of dishonour is unnecessary.

98. No notice of dishonour is necessary—

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage for want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable; Draft, ss. 68, 93: Byles 301.

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument. Byles 302

CHAPTER IX.

OF NOTING AND PROTEST.

Draft, s. Bill II, Bill III, 109.

Noting.

99. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges. Draft, Byles 26

Draft, s. Bill II, Bill III, Byles 26

Protest.

100. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

s. 261.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Protest for better security.

ft, s. 122: II, s. 124: III, s.

101. A protest under section one hundred must contain—

s. 261.

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

Contents of protest.

s. 124: II, s. III, s.

s. 262.

102. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Notice of protest.

II, s. 126: III, s. VI, 1840, 9 Wm. IV, s.

103. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

Protest for non-payment after dishonour by non-acceptance.

s. 108: II, s. 139: III, s.

104. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

Protest of foreign bills.

CHAPTER X.

OF REASONABLE TIME.

s. 56, No. 1: II, s. 127: III, s. 182, 267.

105. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, public holidays shall be excluded.

Reasonable time.

106. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

Draft, s. 129: Bill II, s. 129: Bill III, s. 116: Byles 284.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Byles 285.

Reasonable time of giving notice of dishonour.

107. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

Draft, s. 131: Bill II, s. 130: Bill III, s. 117.

Reasonable time for transmitting such notice.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

108. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Draft, ss. 74, 76: Bill II, s. 131: Bill III, s. 118: Byles 265, 266.

Acceptance for honour.

An acceptor *supra protest* must personally appear before a notary public with two or more witnesses, and declare that he accepts, under protest, the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour, and that he will satisfy the same at the appointed time; and then must subscribe the bill with his own hand.

Unless the person who intends to accept *supra protest* first declares, in the presence of a notary, that he does it for honour, and has such declaration duly recorded in the notarial register at the time, his acceptance shall be a nullity.

109. A person desiring to accept for honour must, in the presence of a notary public, subscribe the bill with his own hand, and declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour; and such declaration must be recorded by the notary in his register.

Now.

How acceptance for honour must be made.

110. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Draft, s. 75 Bill II, s. 132: Bill III, s. 119: Byles 265, 266.

Acceptance not specifying for whose honour it is made.

111. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

Draft, s. 77: Bill II, s. 133: Bill III, s. 120: Byles 267.

Liability of acceptor for honour.

Byles 268.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill

Draft, s. 845 Byles 266: Act VI of 1840, s. 3.

is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

Draft, s. 95; Bill II, s. 134; Bill III, s. 121.

When acceptor for honour may be charged.

112. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

Draft, s. 96; Bill II, s. 135; Bill III, s. 122; Byles 270.

Payment for honour.

113. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Draft, s. 97; Bill II, s. 136; Bill III, s. 123; Byles 271. *In re Overend, Gurney & Co.*, L. R. 6, Eq. 344.

Right of payer for honour.

114. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Draft, s. 73; Bill II, s. 138; Bill III, s. 127; Byles 266.

Drawee in case of need.

115. Where a drawee in case of need is named in a bill of exchange, or in any endorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Acceptance and payment without protest.

116. A drawee in case of need may accept and pay the bill of exchange without previous protest.

CHAPTER XII.

OF COMPENSATION.

Bill II, s. 137; Bill III, s. 124.

Rules as to compensation.

117. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules :—

Draft, s. 65; Byles 415.

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it ;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places ;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment ;

(*d*) When the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places ;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE.

Presumptions as to negotiable instruments

118. Until the contrary is proved, the following presumptions shall be made :— Draft, s. Bill II, s. Bill III, 26; Byles 8,

(*a*) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration ; of consideration;

(*b*) that every negotiable instrument bearing a date was made or drawn on such date : as to date;

(*c*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity : Byles 19 as to time of acceptance;

(*d*) that every transfer of a negotiable instrument was made before its maturity : Byles 17 as to time of transfer;

(*e*) that the endorsements appearing upon a negotiable instrument were made in the order in which they appear thereon : Draft, s. as to order of endorsements;

(*f*) that a lost promissory note, bill of exchange or cheque was duly stamped : Byl s 11 382. as to stamp;

(*g*) that the holder of a negotiable instrument is a holder in due course : provided that where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burthen of proving that the holder is a holder in due course lies upon him. Draft, s. Byles 12 that holder is a holder in due course.

119. In a suit upon an instrument, which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved. Draft, s 123; Act V of s. 13. Presumption on proof of protest.

120. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn. Bill N Bill III, *Phillips Im That* C. B., 694. Estoppel against denying original validity of instrument.

121. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same. Bill II Bill III Byles 2 Estoppel against denying capacity of payee to indorse.

Draft, s. 35: Bill II, s. 57: Bill III, s. 46: Byles 153, See Byles 222, n. (i).

122. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

CHAPTER XIV.

OF CROSSED CHEQUES.

Bill II, s. 30: Bill III, s. 129: 39 & 40 Vic., c. 81, s. 4.

123. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

Bill II, s. 31: Bill III, s. 130: 39 & 40 Vic., c. 81, s. 4.

124. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

Bill II, s. 32: Bill III, s. 131: 39 & 40 Vic., c. 81, s. 5.

125. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

Draft, ss. 102, 103: Bill II, s. 33: Bill III, s. 132: 39 & 40 Vic., c. 81, s. 7.

126. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially.

Bill II, s. 34: Bill III, s. 133: S. 8.

127. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of cheque crossed specially more than once.

Bill II, s. 35: Bill III, s. 134: S. 9.

128. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment in due course of crossed cheque.

129. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

Bill II, s. 3 Bill III, s. 135: S. 10.

130. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Cheque bearing "not negotiable."

Bill II, s. 3 Bill III, s. 136: S. 12.

131. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

Non-liability of banker receiving payment of cheque.

48 L. J. C. P. 529.

CHAPTER XV.

OF BILLS IN SETS.

132. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

Draft, ss. 11, 116: Bill II, s. 28 Bill III, s. 125: Byles 390, 391.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

Byles 92: *Holdsworth* v. *Hunter*, 10 B. & C. 449.

133. As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

Holder of first acquired part entitled to all.

Bill II, s. 29 Bill III, s. 126: Byles 391: Bayley 30, 171.

CHAPTER XVI.

OF INTERNATIONAL LAW.

134. In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

Law governing liability of maker, acceptor or indorser of foreign instrument.

Draft, s. 104: Bill II, s. 110: Bill III, s. 137: Byles 399: *Rouquette* v. *Overmann*, L. R. 10 Q. B. 525: *Horne* v. *Rouquette*, 3 Q. B. Div. 514.

Illustration.

Bykes 402. A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Draft, s. 105: Bill II, s. 141: Bill III, s. 138.

135. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Law of place of payment governs dishonour.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Draft, s. 106: Bill II, s. 142: Bill III, s. 139.

136. If a negotiable instrument is made, drawn, accepted or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Instrument made, &c., out of British India, but in accordance with its law.

Draft, s. 107: Bill II, s. 143: Bill III, s. 140: Act I of 1872, s. 4.

137. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India, unless and until the contrary is proved.

Presumption as to foreign law.

SCHEDULE.

(*a*)—STATUTES.

Year and chapter.	Title.	Extent of repeal.
9 Wm. III, c. 17	An Act for the better payment of Inland Bills of Exchange.	The whole.
3 & 4 Anne, c. 8.	An Act for giving like remedy upon promissory notes as is now used upon Bills of Exchange, and for the better payment of Inland Bills of Exchange.	The whole.

(*b*)—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
XV of 1874 ...	The Laws Local Extent Act, 1874.	The first schedule, so far as relates to Act VI of 1840 and Act V of 1866, sections 11, 12 and 13.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1881, and was referred to a Select Committee :—

No. 3 OF 1881.

A Bill for the amendment of the law relating to Insolvent Debtors in India.

WHEREAS it is expedient to amend the law relating to Insolvent Debtors in India; It is enacted as follows :—

Preamble.

1. This Act may be called "The Insolvent Law Amendment Act, 1881."

Short title.

Local extent.

it extends to the whole of British India; and

Commencement.

it shall come into force on the first day of April 1881.

2. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

"Insolvent."

the word "Insolvent" means a person of whose property a receiver has been appointed under the Code of Civil Procedure, section 351, a person upon whose petition a vesting order has been made under the seventh section of the eleventh and twelfth of Victoria, Chapter XXI, entitled an Act to consolidate and amend the laws relating to Insolvent Debtors in India, and a person who has been adjudged to have committed an act of insolvency under the provisions of section eight or under the provisions of the ninth section of the same Act :

"Adjudication."

the word "adjudication" means the order under the said section 351 of the said Code appointing a receiver, a vesting order under the said seventh section of the said Act, and an order under the said eighth section or under the said ninth section of the said Act adjudging any person to have committed an act of insolvency; and

"Assignee."

the word "assignee" means the person in whom the property of any Insolvent has been vested by the adjudication of such Insolvent.

3. If, at the time of the adjudication of any insolvent, any of his property has been attached in execution of any decree or under any order for attachment before judgment, the Court, under whose order such property has been attached, shall withdraw the attachment and permit his assignee to take possession of the same.

Attached property of insolvent.

If, before the Court has had notice of such insolvency, the attached property has been sold, the proceeds of the sale, after deducting the costs of the attachment and sale and all other necessary costs incurred in and about the realization of such proceeds, shall be paid to the assignee of such insolvent :

Provided, that in case the Court has not had notice of the adjudication of such insolvent, before such proceeds are distributed, the same shall not, merely on account of such adjudication be recalled from the persons to whom they have been paid.

When the Court withdraws the attachment, it may, if it think fit, direct that the proper and necessary costs of the attachment and of the preservation of the property attached shall be charged upon the proceeds of such property; and if such order be made, the assignee shall apply the proceeds of such sale in payment of such costs after payment of the costs of such sale, but in priority to payment of all debts of the insolvent payable out of such proceeds.

4. No property which, under the provisions of the twenty-third section of the said Act would be deemed to be the property of such insolvent, shall be held to have been taken out of his order and disposition by reason only that such property has, before the adjudication of such insolvent, been attached in execution of a decree or under any order for an attachment before judgment.

Order and disposition. Attachment not to alter.

5. Whenever any persons trading in partnership together have, by the consent and permission of the true owner thereof, in their possession, order or disposition, goods or chattels whereof such persons are reputed owners, or whereof they have taken upon them the sale, alteration or disposition as owner, and while they have such possession, order or disposition, any of such persons is, under the provisions of the said Act, adjudicated an insolvent, or obtains a vesting order on his petition, such goods and chattels shall be deemed to be the property of such partnership so as to become vested in the Official Assignee of the Insolvent Court by the order made in pursuance of the said Act for the purpose only, and so far as may be required, for the purpose of paying the joint creditors of the said partnership.

Order and disposition of Firms whose owner becomes Insolvent.

6. Whenever any person who carries on trade within the local limits of the Ordinary Original Civil Jurisdiction of any of the

Transfer of insolvencies from Mufussal Courts.

High Courts at Calcutta, Madras or Bombay is, under the provisions of section 351 of the Code of Civil Procedure, declared to be an insolvent, the Insolvent Court in any of the said towns in which he may carry on business at the time he is so declared to be an insolvent, may, if it think fit, on the application of any creditor of such trader, adjudge him to have committed an act of insolvency:

such adjudication shall have the same force and effect as if he had, under the provisions of the eighth section of the said Act, been adjudicated an insolvent by such Court, at the time when he was declared to be an insolvent under the provisions of the said Code;

and all the estate and effects of such insolvent shall, unless the said Court otherwise directs, vest in the Official Assignee of such Court,

and any person appointed receiver under the provisions of the said Code shall, unless such Court otherwise directs, thereupon make over to the Official Assignee all the property of the insolvent which may have come to his hands as such receiver:

Provided that no such adjudication shall avoid, or in any way affect, any dealing of such receiver with any of such property before he has notice of such adjudication.

Distribution of unclaimed dividends.

7. The assignee of each insolvent estate shall, on the expiration of six months from the declaration of any dividend, file in Court an account upon oath of every dividend remaining in his hands unclaimed, specifying the name of each creditor to whom each such dividend is due, as well as the amount of the debt due to each such creditor, and shall publish the same in the numbers of the local Gazette as are first and second successively printed next after such six months, and all dividends remaining unclaimed for a period of six years shall, after the second of such advertisements, revert to the general fund of each respective estate for re-distribution by the Official Assignee among the remaining creditors of such estate.

All such unclaimed dividends shall remain under the control and management of the Official Assignee pending payment and distribution in such manner as shall be prescribed and furnished by any rules to be made under the powers conferred by section seventy-six of the said Act.

STATEMENT OF OBJECTS AND REASONS.

THE Indian Insolvent Acts, following the analogy of the law of Bankruptcy in England at the time of the first of these Acts being passed, contained no provision for compelling the property of an insolvent, which had been attached in execution before his adjudication, to be distributed among the general body of his creditors. The later English Bankrupt Acts, however, provide for the distribution amongst the bankruptcy creditors of the proceeds of the execution if a petition be filed within fourteen days after the sale; thus securing, as far as possible, equality among creditors, a purpose which the Civil Procedure Code has generally in view; and one of the objects of this Bill is to give that equality of distribution, wherever the property attached has not actually been distributed among the attaching creditors.

The only power which the Insolvent Court now has to stay proceedings in execution does not arise till the Insolvent's schedule has been filed, and in the cases where the insolvent, is friendly to the execution creditor the filing of the schedule is invariably delayed for the purpose of giving him an advantage.

Further, the Code empowers Courts to attach the property of a defendant in cases where there is reason to believe that he is likely to make away with that property in fraud of the plaintiff. Under the language of the old Civil Procedure Code it was held that property so attached before judgment vested in the Official Assignee of the defendant, and was assets of his estate giving no preferential claim to the attaching creditor, but it has been successfully contended that the effect of the new Code, section 490, is to give to a creditor attaching before judgment priority over the assignee, even though the adjudication were before judgment obtained by the attaching creditor.

The third section of the Bill is intended to provide for the rateable distribution of the insolvent's property amongst his creditors in cases where the modern English law would so distribute it, instead of allowing one creditor to sweep away the whole or a large portion of the assets.

From a very early period the Bankruptcy law of England provided that persons who, by leaving goods in the hands of traders, enabled them to maintain a false appearance of wealth and thus obtain credit could not claim such goods from the assignee of the bankrupt, and this provision was introduced into this country by the Insolvent Act. There was nothing however to give similar rights to execution-creditors, and therefore this anomaly occurred that, where an attachment was laid on goods in the hands of a person who became insolvent, the custody of the law took the goods out of the order and disposition of the bankrupt so that a subsequent adjudication did not vest the goods in the assignee, but the attaching creditor was not able to treat the ostensible ownership of the judgment-debtor as giving him any claims. It is not easy to see any sound basis for this distinction, the injurious influence of which is, to some extent, obviated in England by the Bills of Sale Act. The fourth section is intended to avoid this anomaly.

Down to a very recent period it was generally supposed that where moveable property was in the possession and ostensible ownership of a partnership a member of which became bankrupt, the provisions of the Bankrupt Law vested such property in the assignee; it was however decided in *ex parte* Dorman L. R. 8 Ch. App. 51, that such was not the effect of the language

of the Acts upon the ground that it could not be the intention of the Statute to give such rights where the other partners were solvent. The Appellate Court however was of opinion that where the firm is in fact insolvent the case comes within the mischief against which the order and disposition clause is intended to provide, and in this country it has been decided that the existence of an absent partner does not prevent the provisions of that clause attaching. The fifth section is intended to apply the order and disposition-clause to such cases as fall within the mischief which it is intended to prevent.

Much of the trade of the Presidency-towns is carried on by Gumáshtas on behalf of persons residing in remote parts of the Mufassal, and in many cases if such traders became insolvent they might be able, by taking advantage of the insolvency proceedings in the Procedure Code,* to embarass their general trade-creditors who would have much difficulty in supervising the proceedings in a Mufassal Court. The sixth section is intended to enable the creditors of such persons to have the liquidation of their affairs transferred to a Court with machinery better organised for the administration of bankrupt estates in cases where such a course is deemed by the Court to be expedient.

Sums in the aggregate considerable, though, in general, individually small, are from time to time left unclaimed in the hands of the official assignee, and so long ago as 1841 an Act was passed empowering the official assignee after the lapse of six years to distribute the amount of such unclaimed dividends ratably among the creditors who had proved the claims.

The language of this Act however was so singularly framed that it seems impossible that there ever could be a distribution made of such unclaimed dividends. The seventh section is intended to correct this.

* It was found some years ago in England that similar powers given to Scotch Courts were applied to the detriment of English creditors, and a modification of the Scotch Law was enacted to prevent its application to persons whose creditors were principally in another part of the United Kingdom, see 23 & 24 Vic., c. 38.

The 23rd January, 1881.

J. PITT KENNEDY.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 5, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st January, 1881:—

WE, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have had the report of the Indian Law Commissioners, 1879, duly communicated to us. We have carefully considered so much of it as relates to the present Bill, as well as the papers noted in the margin, and, in compliance with the wish of the Secretary of State for India, as expressed in his despatch (Legislative), No. 37, dated 7th October, 1880, we have the honour to submit this our fourth report.

From Secretary, Chamber of Commerce, Madras, dated 1st August, 1878, and enclosure [Papers No. 56].
" Acting Chief Secretary to Government, Madras, No. 299, dated 14th February, 1879, and enclosures [Papers No. 58].
" Ditto, ditto, ditto, No. 1343, dated 7th June, 1879, and enclosures [Papers No. 59].
" J. Crawfurd, Esq., Registrar, High Court, Calcutta, No. 1123, dated 27th June, 1879 [Paper No. 60].
Note by Sir Charles Turner, Chief Justice, Madras, dated 22nd January, 1880 [Paper No. 61].
From Seth Lachman Dás, Muttra, dated 1st January, 1881 [Paper No. 62].

2. We agree with the Commissioners that uniformity of practice is particularly desirable in matters relating to negotiable paper, and, to facilitate the assimilation of the practice of shroffs to that of European merchants, we have declared (section 1) that local usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by the proposed Act.

3. We have inserted explanations calculated to prevent doubts as to when a promise or order to pay is "conditional," when the sum payable is "certain," and when the person to whom the direction is given or payment is to be made is "a certain person," within the meaning of sections 4 and 5.

4. We have re-drawn section 20 as to inchoate stamped instruments, so as to make it express more accurately what we conceive to be the law on this subject.

5. We have also re-drawn sections 47 and 48 (as follows):—

Negotiable instrument made, &c., without consideration.

"43. A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

"*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed, can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

"*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full, shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed."

6. We have prefixed to the sections relating to negotiation clauses (section 46) relating to delivery generally, and to the effect recommended by the Commissioners.

7. We think the section (67, now 63) relating to the drawee's time for deliberation should provide that the holder of a bill "must, if so required by the drawee," allow him twenty-four hours (exclusive of public holidays) to consider whether he will accept, and we have amended this section accordingly.

8. We have made (section 76) presentment for payment unnecessary as against any party sought to be charged, if he has engaged to pay notwithstanding non-presentment.

9. We have in section 90 (now 86) substituted "qualified" for "conditional" and added a paragraph shewing when an acceptance is qualified.

10. We have provided (section 90) for the extinguishment of rights of action on a negotiated bill held, at or after maturity, by the acceptor in his own right.

11. We agree with Sir C. Turner that section 108 of the Bill in its fourth form—as to reasonable time for presentment—should be omitted. It seems inconsistent with section 107 (now 105), and declares a rule which is not only stricter than the existing law, but would, in our opinion, be highly inconvenient.

12. We have inserted a statement of the procedure in the case of an acceptance *supra protest*, and to section 112 (now 109) we have prefixed a clause shewing how acceptance for honour must be made.

13. We have declared (section 116) that a drawee in case of need may accept and pay the bill without previous protest.

14. We have made it appear that inland (as well as foreign) bills may be drawn in sets, and altered Chapter XIV (now XV) accordingly. We have made the exception to section 126 (now 132) run thus:—

"*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he *and the subsequent indorser of each part* are liable on such part as if it were a separate bill."

15. We have amended the second clause of section 125 (now 130, 131) (as to the non-liability of a banker who has received payment for a customer of a crossed cheque) in accordance with *Matthiessen* v. *London and County Banking Company*, 48 L. J. C. P. 529.

16. We have made most of the changes in arrangement and wording advised by the Commissioners, and recommend that the Bill as now revised be passed. It has now been more than thirteen years before the Council of the Governor General; it has been redrawn, copiously criticised and repeatedly revised; and without the experience derived from its actual operation, it is not likely to be further improved. But it should be published in the Gazettes, and, according to the orders of the Secretary of State, it must, before being passed, be sent to the Local Governments, translated into the vernaculars and submitted to him with this report.

WHITLEY STOKES.
B. W. COLVIN.
J. PITT KENNEDY.
G. C. PAUL.

The 20th January, 1881.

No. V.

THE NEGOTIABLE INSTRUMENTS BILL, 1881.

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SCHEDULE.

No. V.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble.

WHEREAS it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. Bill II, s. 1; Bill III, s. 2.

1. This Act may be called "The Negotiable Instruments Act, 1881:"

Local extent.

It extends to the whole of British India; but

Saving of usages relating to hundís, &c.

nothing herein contained affects the Indian Paper Currency Act, 1871, section twenty-one, or affects any local usage relating to any instrument in an oriental language: Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act;

Commencement.

and it shall come into force on the first day of January, 1882.

Repeal of enactments. Bill II, s. 2; Bill III, s. 2.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

Interpretation-clause. Bill II, s. 3; Bill III, s. 3; 39 & 40 Vic., c. 81, s. 3.

3. In this Act—

"Banker."

"Banker" includes also persons or a corporation or company acting as bankers; and

"Notary Public."

"Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note. Bill II, s. 4; Bill III, s. 4; Byles on Bills (12th edition), pp. 5, 94; 3 & 4 Anne, c. 9 (Byles 481); Byles 5, 102; Byles 10; Byles 93; Byles 6.

4. A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received."

(*c*) "Mr. B, I O U Rs. 1,000."

(*d*) "I promise to pay B Rs. 500 and all other sums which shall be due to him."

(*e*) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."

(*f*) "I promise to pay B Rs. 500 seven days after my marriage with C."

(*g*) "I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."

(*h*) "I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (*a*) and (*b*) are promissory notes. The instruments respectively marked (*c*), (*d*), (*e*), (*f*), (*g*) and (*h*) are not promissory notes.

II, s. 5: III, s. 5: les 1, 75: 94, 97: les 93, 94, les 75, 81.

5. A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

"Bill of exchange."

A promise or order to pay is not "conditional," within the meaning of this section and section four, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this section and section four, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section four, although he is mis-named or designated by description only.

II, s. 6: III, s. 5: s 13.

6. A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Cheque."

f, s. 6: II, s. 7: III, s. 7.

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawer." "Drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Drawee in case of need."

ft, s. 6, s 196: VI of , s. 2: V of 1866, 41 Vic.,

After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor."

When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Acceptor for honour."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Payee."

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

"Holder." Draft, s. 6: Bill II, s. 8: Bill III, s. 8: Byles 2.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer,

"Holder in due course." Draft, s. 12: Bill II, s. 9: Bill III, s. 9: 1 Parsons 255: Byles 164.

or the payee or indorsee thereof, if payable to, or to the order of, a payee,

before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

"Payment in due course." Draft, ss. 86, 115: Bill II, s. 10: Bill III, s. 10: Byles on Bills (12th edition), 221: 39 & 40 Vic., c. 81, s. 11.

11. A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

"Inland instrument." Bill II, s. 11: Bill III, s. 11: Act V of 1866, s. 12.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Foreign instrument." Bill II, s. 12: Bill III, s. 12.

13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof.

"Negotiable instrument." Draft, s. 5: Bill II, s. 13: Bill III, s. 13.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

"Negotiation." Draft, s. 7: Bill II, s. 14: Bill III, s. 14.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

"Indorsement." Draft, s. 20: Bill II, s. 15: Bill III, s. 15: *Denton* v. *Peters*, L. R. 5 Q. B. 475: *Ex parte Cote* L. R. 9 Ch. App. 27: Byles 165: Byles 150.

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

"Indorsement "in blank" and "in full." "Indorsee." Bill II, s. 16: Bill III, s. 16.

Bill II, s. 17: Bill III, s. 17: Byles 91: Bayley (6th edition) 8.

Ambiguous instruments.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Draft, s. 2: Bill II, s. 18: Bill III, s. 18: Byles 84: Bayley 12 (*Saunderson* v. *Piper*).

Where amount is stated differently in figures and words.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

Bill II, s. 19: Bill III, s. 19: 1 Parsons 271: Byles 13, 212: *Aldous* v. *Cornwell*, L. R. 3 Q. B. 573.

Instruments payable on demand.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Bill II, s. 20: Bill III, s. 20: Byles 88, 165, 188: *Foster* v. *Mackinnon*, L. R. 4 C. P. 704: Byles 84.

Inchoate stamped instruments.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in British India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *primâ facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

Bill II, s. 23: Bill III, s. 22: Byles 80, 180, 206, 209, 528: 34 & 35 Vic., c. 74, s. 2.

"At sight." "On presentment." "After sight."

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

Draft, s. 78: Bill II, s. 22: Bill III, s. 23.

"Maturity."

22. The maturity of a promissory note or bill of exchange is the date at which it falls due.

New.

Days of grace.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight, or on presentment, is at maturity on the third day after the day on which it is expressed to be payable.

Draft, s. 79: Bill II, s. 24: Bill III, s. 24: Byles 206.

Calculating maturity of bill or note payable so many months after date or sight.

23. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*). A negotiable instrument, dated 29th January, 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878.

(*b*). A negotiable instrument, dated 30th August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(*c*). A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

Draft, s. 80: Bill II, s. 25: Bill III, s. 25: Byles 206.

Calculating maturity of bill or note payable so many days after date or sight.

24. In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

Draft, s. 80: Bill II, s. 25: Bill III, s. 25: Byles 208.

When day of maturity is a holiday.

25. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday.

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

Bill II, s. 3[illegible] Bill III, s. 2[illegible] See 37 & Vic., c. 62, 1 (Byles 52[illegible] Byles 59.

Capacity to make, &c., promissory notes, &c.

26. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Byles 61.

Minor.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

Bill II, s. Bill III, s. Byles 31.

Agency.

27. Every person capable of binding himself or of being bound, as mentioned in section twenty-six, may so bind himself or be bound by a duly authorized agent acting in his name.

Byles 32.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

Byles 33.

An authority to draw bills of exchange does not of itself import an authority to indorse.

Draft, s. Bill II, s. Bill III,

Liability of agent signing.

28. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the

Act IX of 1872, s. 234.

instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Byles 57: Bill III, s. 31.

Liability of legal representative signing.

29. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

Draft, ss. 17, 73: Bill II, s. 44: Bill III, s. 34: Byles 3, 245: Bayley 43: Byles 280.

Liability of drawer.

30. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder under Chapter XII, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Bill II, s. 45: Bill III, s. 35: Byles 18, 19, 185: Chitty 56: Grant on Bankers, 51: *Gray* v. *Johnston*, L. R. 3 E. and I. App. 1.

Liability of drawee of cheque.

31. The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque, must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

Draft, ss. 60, 65: Bill II, s. 46: Bill III, s. 36: Byles 190, 193: Draft, s. 60: Bayley 44: Byles 910.

Liability of maker of note and acceptor of bill.

32. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him, and caused by such default.

Draft, s. 61: Bill II, s. 47: Bill III, s. 37: Byles 187, 188.

Only drawee can be acceptor except in need or for honour.

33. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Draft, s. 59: Bill II, s. 41: Bill III, s. 32.

Acceptance by several drawees not partners.

34. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Draft, ss. 28, 32, 37 (para. 2), 46, 64, 65, 90 and 98: Bill II, s. 48: Bill III, s. 38: Byles 153, 245, 295: *Robertson* v. *Kensington*, 4 Taunt. 30: Byles 152, 153: *Case* v. *Pompe*, 30 L. J. C. P. 75: *Horne* v. *Rouquette*, 3 Q. B. Div. 514.

Liability of indorser.

35. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Draft, s. 44.

Every indorser after dishonour is liable as upon an instrument payable on demand.

Draft, ss. 63, 71: Bill II, s. 49: Bill III, s. 39: Byles 166: *O'Keefe* v. *Dunn*, 6 Taunt. 305: 5 M. & S. 282.

Liability of prior parties to holder in due course.

36. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Bill II, s. 50: Bill III, s. 40: Byles 245.

Maker, drawer and acceptor principals.

37. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

Bill II, s. 51: Bill III, s. 41: Byles 245.

Prior party a principal in respect of each subsequent party.

38. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration.

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

Bill II, s. 52: Bill III, s. 42: *Owen* v. *Homan*, 4 H. L. Cas. 97: *Muir* v. *Crawford*, L. R. 2 Sc. App. 456.

Suretyship.

39. When the holder of an accepted bill of exchange enters into any contract with the acceptor which under section 134 or 135 of the Indian Contract Act, 1872, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

Draft, s. 100: Bill II, s. 53: Bill III, s. 43: cf. Act IX of 1872, s. 137.

Discharge of indorser's liability.

40. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement, "B."
Second indorsement, "Peter Williams."
Third indorsement, "Wright and Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

Draft, s. 36: Bill II, s. 58: Bill III, s. 47: Byles 200, 201.

Acceptor bound, although indorsement forged.

41. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Bill II, s. 59: Bill III, s. 48: Byles 201: *Cooper* v. *Meyer*, 10 B. & C. 468: Act I of 1872, s. 117.

Acceptance of bill drawn in fictitious name.

42. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

New.

Negotiable instrument made, &c., without consideration.

43. A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Exception I.—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed, can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full, shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

Draft, s. 54: Bill II, s. 62: Bill III, s. 51: Byles 130.

Partial absence or failure of money-consideration.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Draft, s. 55: Bill II, s. 63: Bill III, s. 52.

Partial failure of consideration not consisting of money.

45. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

CHAPTER IV.

OF NEGOTIATION.

Delivery.

46. The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument, or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

Draft, s. 18: Bill II, s. 64: Bill III, s. 53: Byles 148.

Negotiation by delivery.

47. Subject to the provisions of section fifty-eight, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustrations.

(*a*). A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated. Byles 148, note (*i*).

(*b*). A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Draft, s. 19: Bill II, s. 65: Bill III, s. 54: *Denton* v. *Peters*, L.R. 5 Q.B. 475: *Exparte Cote*, L. R. 9 Ch. App. 27.

Negotiation by indorsement.

48. Subject to the provisions of section fifty-eight, a promissory note, bill of exchange or cheque payable to the order of a specified person, or to a specified person or order, is negotiable by the holder by indorsement and delivery thereof.

Draft, s. 31: Bill II, s. 68: Bill III, s. 57: Byles 150, 161.

Conversion of indorsement in blank into indorsement in full.

49. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Draft, ss. 29, 30: Bill II, ss. 69, 70: Bill III, ss. 58, 59: Byles 153.

Effect of indorsement.

50. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Illustrations.

B signs the following indorsements on different negotiable instruments payable to bearer:—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the [illegible] ntal Bank."

(*g*) "Pay the contents to C, being p[illegible] the consideration in a certain deed of assignm[illegible] ecuted by C to the indorser and others."

These indorsements do not ex[illegible] the right of further negotiation by C.

Draft., ss. 20, 27 Bill II, s. 71: Bill III, s. 60.

Who may negotiate.

51. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded, as mentioned in section fifty, indorse and negotiate the same.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

Draft., ss. 33, 72 Bill II, s. 72: Bill III, s. 61: Byles 158, 167.

Indorser who excludes his own liability or makes it conditional.

52. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event, although such event may never happen.

Act, s. 45.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a*) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse."

Upon this indorsement he incurs no liability.

(*b*) A is the payee and holder of a negotiable instrument. Excluding personal liability by an endorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

Act, s. 49: Bill II, s. 73: Bill III, s. 64.

Holder deriving title from holder in due course.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Act, s. 25: Bill II, s. 74: Bill III, s. 63.

Instrument indorsed in blank.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Act, s. 39: Bill II, s. 75: Bill III, s. 64.

Conversion of indorsement in blank into indorsement in full.

55. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Act, s. 28: Bill II, s. 76: Bill III, s. 65: Act, s. 172.

Indorsement for part of sum due.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but where such amount has been partly paid, a note to that effect may be endorsed on the instrument, which may then be negotiated for the balance.

Act, s. 22: Bill II, s. 78: Bill III, s. 67: Act, s. 174.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Draft., ss. 52, 53: Bill II, s. 70: Bill III, s. 62: Byles 122, 164.

Instrument obtained by unlawful means or for unlawful consideration.

58. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Draft., ss. 43, and part of s. 52: Bill II, s. 80: Bill III, s. 69: Byles 166, 168.

Instrument acquired after dishonour or when overdue.

59. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor:

Accommodation note or bill.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

Draft., ss. 41, 84: Bill II, s. 81: Bill III, s. 70: Byles 170.

Instrument negotiable till payment or satisfaction.

60. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

Draft., s. 56: Bill II, s. 82: Bill III, s. 71.

Presentment for acceptance.

61. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business-hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Walker v. *McDonald*, 2 Ex. 532: *Leonard* v. *Wilson*, 2 Cr. & M. 592: Byles 180 to 182.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured. Byles 184.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured. Byles 183, 184.

Bill II, s. 83: Bill III, s. 72.

Presentment of promissory note for sight.

62. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can

after reasonable search be found) by a person entitled to demand payment, within a reasonable time after it is made and in business-hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Draft, s. 56: Bill II, s. 84: Bill III, s. 73: Byles 189.

Drawee's time for deliberation.

63. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee twenty-four hours (exclusive of public holidays) to consider whether he will accept it.

Draft, s. 133: Bill II, s. 85: Bill III, s. 74.

Presentment for payment.

64. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Byles 216.

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

Bill II, s. 86: Bill III, s. 76: Draft, s. 137: Byles 213.

Hours for presentment.

65. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Draft, s. 133: Bill II, s. 87: Bill III, s. 76. Byles 208, 213.

Presentment for payment of instrument payable after date or sight.

66. A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

Bill II, s. 88: Bill III, s. 77: Byles 7.

Presentment for payment of promissory note payable by instalments.

67. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Draft, s. 138: Bill II, s. 89: Bill III, s. 78: Act VI of 1840, s. 1: 1 & 2 Geo. IV. c. 78 (Byles 490).

Presentment for payment of instrument payable at specified place and not elsewhere.

68. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Draft, ss. 139, 140: Bill II, s. 90: Bill III, s. 79: Byles 214.

Instrument payable at specified place.

69. A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Draft, ss. 139, 140, 142: Bill II, s. 91: Bill III, s. 80. Byles 214, 215.

Presentment where no exclusive place specified.

70. A promissory note or bill of exchange, not made payable as mentioned in sections sixty-eight and sixty-nine, must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Draft, s. 141: Bill II, s. 92: Bill III, s. 81.

Presentment when maker, &c., has no known place of business or residence.

71. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment of cheque to charge drawer.

72. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer. Bill II, s. 9 Bill III, s. Byles 21, 2 Byles 20.

Presentment of cheque to charge any other person.

73. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person. Bill II, s. 9 Bill III, s. Byles 21.

Presentment of instrument payable on demand.

74. Subject to the provisions of section thirty-one, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder. Draft, s. 1 Bill II, s. Bill III, s. Byles 211.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

75. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee. Bill II, s. Bill III, s. Parsons 50

When presentment unnecessary.

76. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:— Draft, ss. 91: Bill II, s. Bill III, s. Byles 213.

(*a*) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument,

or, if the instrument being payable at his place of business, he closes such place on a business day during the usual business-hours, or

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business-hours, or

if the instrument not being payable at any specified place, he cannot after due search be found;

(*b*) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;

(*c*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(*d*) as against the drawer, if the drawer could not suffer damage from the want of such presentment. Tassy v. Parker, Ad. & E. 502: Wirth v. Austin, L. 10 C. P.

Liability of banker for negligently dealing with bill presented for payment.

77. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss. Draft, s. Bill II. Bill III. Byles 19

CHAPTER VI.

OF PAYMENT AND INTEREST.

Bill II, s. 100: Bill III, s. 88: Byles 220.

78. Subject to the provisions of section eighty-two, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

Bill II, s. 101: Bill III, s. 89: Byles 306, 307.

79. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when rate specified.

Draft, s. 65: Bill II, s. 102: Bill III, s. 90: Byles 306, 307, 308.

80. When no rate of interest is specified in the instrument, interest on the amount due thereon shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six percentum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when no rate specified.

'ten,' Bank of Bengal.

Byles 308.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

Draft, s. 82: Bill II, s. 103: Bill III, s. 91: Byles 373: See Pro. Code, s. 61.

81. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

Draft, s. 85: Bill II, s. 104: Bill III, s. 92.

82. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

Discharge from liability—

Byles 154, 199: Draft, s. 38.

(*a*) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by cancellation;

Byles 198, 240.

(*b*) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by release;

Draft, ss. 87, 88: Byles 221.

(*c*) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

by payment.

Draft, s. 70: Bill II, s. 105: Bill III, s. 93.

83. If the holder of a bill of exchange allows the drawee more than twenty-four hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

Draft, s. 101: Bill II, s. 106: Bill III, s. 94: Byles 20.

84. When the holder of a cheque fails to present it for payment within a reasonable time, and the drawer thereof sustains loss or damage from such failure, he is discharged from liability to the holder.

When cheque not duly presented and drawer damaged thereby.

Bill II, s. 107: Bill III, s. 95: 16 & 17 Vic., c. 59, s. 19: Byles 27, 505: *Charles* v. *Blackwell*, 1 C. P. Div. 548.

85. Where a cheque payable to order, purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

Draft, s. 69: Bill II, s. 108: Bill III, s. 96: Byles 193, 194.

86. If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder, they assent to such acceptance.

Parties not consenting discharged by qualified or limited acceptance.

Explanation.—An acceptance is qualified—

(*a*) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated;

(*b*) where it undertakes the payment of part only of the sum ordered to be paid;

(*c*) where, no place of payment being specified on the order, it undertakes the payment at a specified place and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere;

(*d*) where it undertakes the payment at a time other than that at which under the order it would be legally due.

Draft, ss. 109, 110: Bill II, s. 110: Bill III, s. 97: Byles 334.

87. Save as provided in sections twenty, forty-nine, eighty-six and one hundred and twenty-five, any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

Effect of material alteration.

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

Alteration by indorsee.

Bill II, s. 111: Bill III, s. 98: Byles 326.

The provisions of this section are subject to those of sections twenty, forty-nine, eighty-six and one hundred and twenty-five.

Draft, ss. 112 to 114: Act I of 1872, s. 112: Bill II, s. 112: Bill III, s. 99.

88. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

Draft, s. 115: Bill II, s. 113. Bill III, s. 100: 39 & 40 Vic., c. 81, s. 11.

Payment of instrument on which alteration is not apparent.

89. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered, or the cheque crossed.

Extinguishment of rights of action on bill in acceptor's hands.

90. If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

Draft, s. 33: Bill II, s. 114: Bill III, s. 101: Byles 187.

Dishonour by non-acceptance.

91. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

Bill II, s. 115: Bill III, s. 102.

Dishonour by non-payment.

92. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

Draft, ss. 125, 127, 131: Bill II, s. 116: Bill III, s. 103: Byles 278. Byles 288. Byles 293. Byles 290.

By and to whom notice should be given.

93. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

Draft, ss. 126, 127, 128, 130: Bill II, s. 117: Bill III, s. 104: Byles 274, 275. Byles 280. [illegible] Draft, s. 126. Byles 283.

Mode in which notice may be given.

94. Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

Draft, s. 131: Bill II, s. 118: Bill III, s. 105.

Party receiving must transmit notice of dishonour.

95. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section ninety-three.

Draft, s. 132: Bill II, s. 119: Bill III, s. 106: Byles 286.

Agent for presentment.

96. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Draft, s. 130: Druse 2: Bill II, s. 120: Bill III, s. 107.

When party to whom notice given is dead.

97. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

Draft, s. 92: Bill II, s. 121: Bill III, s. 108: Byles 296.

When notice of dishonour is unnecessary.

98. No notice of dishonour is necessary—

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage for want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable; — Draft, ss. 6, 68, 93: Byles 301.

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument. — Byles 302.

CHAPTER IX.

OF NOTING AND PROTEST.

Draft, s. 119: Bill II, s. 122: Bill III, s. 109.

Noting.

99. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges. — Draft, s. 119: Byles 261.

Draft, s. 120: Bill II, s. 123: Bill III, s. 110: Byles 260.

Protest.

100. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

Byles 261.

Protest for better security.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Draft, s. 122: Bill II, s. 124: Bill III, s. 111: Byles 261.

Contents of protest.

101. A protest under section one hundred must contain—

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

Draft, s. 124: Bill II, s. 126: Bill III, s. 112: Byles 262.

Notice of protest.

102. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Bill II, s. 126: Bill III, s. 113: Act VI, 1840, s. 4: 2 & 3 Wm. IV, c. 98.

Protest for non-payment after dishonour by non-acceptance.

103. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

Draft, s. 108: Bill II, s. 139: Bill III, s. 129.

Protest of foreign bills.

104. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

CHAPTER X.

OF REASONABLE TIME.

Draft, s. 56, Explns. 1: Bill II, s. 127: Bill III, s. 114: Byles 189, 287.

Reasonable time.

105. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, public holidays shall be excluded.

Reasonable time of giving notice of dishonour.

106. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour. Draft, s. 129: Bill II, s. 129: Bill III, s. 116: Byles 284.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour. Byles 285.

Reasonable time for transmitting such notice.

107. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder. Draft, s. 131: Bill II, s. 130: Bill III, s. 117.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

Acceptance for honour.

108. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto. Draft, ss. 74, 76: Bill II, s. 131: Bill III, s. 118: Byles 265, 266.

An acceptor *supra protest* must personally appear before a notary public with two or more witnesses, and declare that he accepts, under protest, the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour, and that he will satisfy the same at the appointed time; and then must subscribe the bill with his own hand.

Unless the person who intends to accept *supra protest* first declares, in the presence of a notary, that he does it for honour, and has such declaration duly recorded in the notarial register at the time, his acceptance shall be a nullity.

How acceptance for honour must be made.

109. A person desiring to accept for honour must, in the presence of a notary public, subscribe the bill with his own hand, and declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour; and such declaration must be recorded by the notary in his register. New.

Acceptance not specifying for whose honour it is made.

110. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer. Draft, s. 75: Bill II, s. 132: Bill III, s. 119: Byles 265, 266.

Liability of acceptor for honour.

111. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance. Draft, s. 77: Bill II, s. 133: Bill III, s. 120: Byles 267. Byles 268.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill Draft, s. 845: Byles 266: Act VI of 1840, s. 3.

is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

Draft, s. 95; Bill II, s. 134; Bill III, s. 121.

When acceptor for honour may be charged.

112. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

Draft, s. 96; Bill II, s. 135; Bill III, s. 122; Bykes 270.

Payment for honour.

113. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Draft, s. 97; Bill II, s. 136; Bill III, s. 123; Bykes 271. *In re Overend, Gurney & Co.*, L. R. 6, Eq. 344.

Right of payer for honour.

114. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Draft, s. 73; Bill II, s. 138; Bill III, s. 127; Bykes 266.

Drawee in case of need.

115. Where a drawee in case of need is named in a bill of exchange, or in any endorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Acceptance and payment without protest.

116. A drawee in case of need may accept and pay the bill of exchange without previous protest.

CHAPTER XII.

OF COMPENSATION.

Bill II, s. 137; Bill III, s. 124.

Rules as to compensation.

117. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules:—

Draft, s. 65; Bykes 415.

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) When the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE.

Draft, s. 12; Bill II, s. 27; Bill III, s. 26; Bykes 3, 119.

Presumptions as to negotiable instruments

118. Until the contrary is proved, the following presumptions shall be made:—

as to consideration;

(*a*) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration:

as to date;

(*b*) that every negotiable instrument bearing a date was made or drawn on such date:

Bykes 190.

as to time of acceptance;

(*c*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity:

Bykes 170.

as to time of transfer;

(*d*) that every transfer of a negotiable instrument was made before its maturity:

Draft, s. 37.

as to order of endorsements;

(*e*) that the endorsements appearing upon a negotiable instrument were made in the order in which they appear thereon:

Bykes 117, 382.

as to stamp;

(*f*) that a lost promissory note, bill of exchange or cheque was duly stamped:

Draft, s. 12; Bykes 122.

that holder is a holder in due course.

(*g*) that the holder of a negotiable instrument is a holder in due course: provided that where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burthen of proving that the holder is a holder in due course lies upon him.

Draft, ss. 121, 123; Act V of 1866, s. 13.

Presumption on proof of protest.

119. In a suit upon an instrument, which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

Bill II, s. 54; Bill III, s. 44; *Phillips* v. *Im Thurn* 18, C. B., N. S. 694.

Estoppel against denying original validity of instrument.

120. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Bill II, s. 56; Bill III, s. 45; Bykes 200.

Estoppel against denying capacity of payee to indorse.

121. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

...t. s. 35: ...II. c. 57: III. s. 46: ...153. Byles 222, ...

Estoppel against denying signature or capacity of prior party.

122. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

CHAPTER XIV.

OF CROSSED CHEQUES.

...II, s. 30: ... III, s. ...: ...40 Vic., ...1, s. 4.

Cheque crossed generally.

123. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

...II, s. 31: ... III, s. ...: ...40 Vic., ...1, s. 4.

Cheque crossed specially.

124. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

...II, s. 32: ... III, s. ...: ...40 Vic., ...1, s. 5.

Crossing after issue.

125. Where a cheque is uncrossed, the holder may cross it generally or specially.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

...aft, ss. 102, ...: ... II, s. 33: ... III, s. ...: ...40 Vic., ...1, s. 7.

Payment of cheque crossed generally.

126. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed specially.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

... II, s. 34: ... III, s. ...:

Payment of cheque crossed specially more than once.

127. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

... II, s. 35: ... III, s. ...: ...0.

Payment in due course of crossed cheque.

128. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Bill II, s. 36: Bill III, s. 135: S. 10.

Payment of crossed cheque out of due course.

129. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Bill II, s. 37: Bill III, s. 136: S. 12.

Cheque bearing "not negotiable."

130. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

18 L. J. C. P. 529.

Non-liability of banker receiving payment of cheque.

131. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective incur any liability to the true owner of the cheque by reason only of having received such payment.

CHAPTER XV.

OF BILLS IN SETS.

Draft, ss. 11, 116: Bill II, s. 28: Bill III, s. 125: Byles 390, 391.

Set of bills.

132. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

Byles 92: *Holdsworth* v. *Hunter*, 10 B. & C. 449.

Bill II, s. 29: Bill III, s. 126: Byles 391: Bayley 50, 171.

Holder of first acquired part entitled to all.

133. As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

CHAPTER XVI.

OF INTERNATIONAL LAW.

Draft, s. 104: Bill II, s. 140: Bill III, s. 137: Byles 399: *Rouquette* v. *Overmann*, L. R. 10 Q. B. 525: *Hamac* v. *Rouquette*, 3 Q. B. Div. 514.

Law governing liability of maker, acceptor or indorser of foreign instrument.

134. In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

Illustration.

Byles 402. A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Draft, s. 105; Bill II, s. 141; Bill III, s. 138.

Law of place of payment governs dishonour.

135. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Draft, s. 106; Bill II, s. 142; Bill III, s. 139.

Instrument made, &c., out of British India, but in accordance with its law.

136. If a negotiable instrument is made, drawn, accepted or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Draft, s. 107; Bill II, s. 143; Bill III, s. 140; Act I of 1872, s. 4.

Presumption as to foreign law.

137. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India, unless and until the contrary is proved.

SCHEDULE.

(*a*)—STATUTES.

Year and chapter.	Title.	Extent of repeal.
9 Wm. III, c. 17	An Act for the better payment of Inland Bills of Exchange.	The whole.
3 & 4 Anne, c. 8.	An Act for giving like remedy upon promissory notes as is now used upon Bills of Exchange, and for the better payment of Inland Bills of Exchange.	The whole.

(*b*)—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
XV of 1874 ...	The Laws Local Extent Act, 1874.	The first schedule, so far as relates to Act VI of 1840 and Act V of 1866, sections 11, 12 and 13.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1881, and was referred to a Select Committee :—

No. 3 OF 1881.

A Bill for the amendment of the law relating to Insolvent Debtors in India.

Preamble.

WHEREAS it is expedient to amend the law relating to Insolvent Debtors in India; It is enacted as follows :—

Short title.

1. This Act may be called "The Insolvent Law Amendment Act, 1881 :"

Local extent.

it extends to the whole of British India; and

Commencement.

it shall come into force on the first day of April 1881.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Insolvent."

the word "Insolvent" means a person of whose property a receiver has been appointed under the Code of Civil Procedure, section 351, a person upon whose petition a vesting order has been made under the seventh section of the eleventh and twelfth of Victoria, Chapter XXI, entitled an Act to consolidate and amend the laws relating to Insolvent Debtors in India, and a person who has been adjudged to have committed an act of insolvency under the provisions of section eight or under the provisions of the ninth section of the same Act :

"Adjudication."

the word "adjudication" means the order under the said section 351 of the said Code appointing a receiver, a vesting order under the said seventh section of the said Act, and an order under the said eighth section or under the said ninth section of the said Act adjudging any person to have committed an act of insolvency; and

"Assignee."

the word "assignee" means the person in whom the property of any Insolvent has been vested by the adjudication of such Insolvent.

Attached property of insolvent.

3. If, at the time of the adjudication of any insolvent, any of his property has been attached in execution of any decree or under any order for attachment before judgment, the Court, under whose order such property has been attached, shall withdraw the attachment and permit his assignee to take possession of the same.

If, before the Court has had notice of such insolvency, the attached property has been sold, the proceeds of the sale, after deducting the costs of the attachment and sale and all other necessary costs incurred in and about the realization of such proceeds, shall be paid to the assignee of such insolvent :

Provided, that in case the Court has not had notice of the adjudication of such insolvent, before such proceeds are distributed, the same shall not, merely on account of such adjudication, be recalled from the persons to whom they have been paid.

When the Court withdraws the attachment, it may, if it think fit, direct that the proper and necessary costs of the attachment and of the preservation of the property attached shall be charged upon the proceeds of such property; and if such order be made, the assignee shall apply the proceeds of such sale in payment of such costs after payment of the costs of such sale, but in priority to payment of all debts of the insolvent payable out of such proceeds.

Order and disposition. Attachment not to alter.

4. No property which, under the provisions of the twenty-third section of the said Act would be deemed to be the property of such insolvent, shall be held to have been taken out of his order and disposition by reason only that such property has, before the adjudication of such insolvent, been attached in execution of a decree or under any order for an attachment before judgment.

Order and disposition of Firms whose owner becomes Insolvent.

5. Whenever any persons trading in partnership together have, by the consent and permission of the true owner thereof, in their possession, order or disposition, goods or chattels whereof such persons are reputed owners, or whereof they have taken upon them the sale, alteration or disposition as owner, and while they have such possession, order or disposition, any of such persons is, under the provisions of the said Act, adjudicated an insolvent, or obtains a vesting order on his petition, such goods and chattels shall be deemed to be the property of such partnership so as to become vested in the Official Assignee of the Insolvent Court by the order made in pursuance of the said Act for the purpose only, and so far as may be required, for the purpose of paying the joint creditors of the said partnership.

Transfer of insolvencies from Mufussil Courts.

6. Whenever any person who carries on trade within the local limits of the Ordinary Original Civil Jurisdiction of any of the

High Courts at Calcutta, Madras or Bombay is, under the provisions of section 351 of the Code of Civil Procedure, declared to be an insolvent, the Insolvent Court in any of the said towns in which he may carry on business at the time he is so declared to be an insolvent, may, if it think fit, on the application of any creditor of such trader, adjudge him to have committed an act of insolvency:

such adjudication shall have the same force and effect as if he had, under the provisions of the eighth section of the said Act, been adjudicated an insolvent by such Court, at the time when he was declared to be an insolvent under the provisions of the said Code;

and all the estate and effects of such insolvent shall, unless the said Court otherwise directs, vest in the Official Assignee of such Court,

and any person appointed receiver under the provisions of the said Code shall, unless such Court otherwise directs, thereupon make over to the Official Assignee all the property of the insolvent which may have come to his hands as such receiver:

Provided that no such adjudication shall avoid, or in any way affect, any dealing of such receiver with any of such property before he has notice of such adjudication.

Distribution of unclaimed dividends.

7. The assignee of each insolvent estate shall, on the expiration of six months from the declaration of any dividend, file in Court an account upon oath of every dividend remaining in his hands unclaimed, specifying the name of each creditor to whom each such dividend is due, as well as the amount of the debt due to each such creditor, and shall publish the same in the numbers of the local Gazette as are first and second successively printed next after such six months, and all dividends remaining unclaimed for a period of six years shall, after the second of such advertisements, revert to the general fund of each respective estate for re-distribution by the Official Assignee among the remaining creditors of such estate.

All such unclaimed dividends shall remain under the control and management of the Official Assignee pending payment and distribution in such manner as shall be prescribed and furnished by any rules to be made under the powers conferred by section seventy-six of the said Act.

STATEMENT OF OBJECTS AND REASONS.

THE Indian Insolvent Acts, following the analogy of the law of Bankruptcy in England at the time of the first of these Acts being passed, contained no provision for compelling the property of an insolvent, which had been attached in execution before his adjudication, to be distributed among the general body of his creditors. The later English Bankrupt Acts, however, provide for the distribution amongst the bankruptcy creditors of the proceeds of the execution if a petition be filed within fourteen days after the sale; thus securing, as far as possible, equality among creditors, a purpose which the Civil Procedure Code has generally in view; and one of the objects of this Bill is to give that equality of distribution, wherever the property attached has not actually been distributed among the attaching creditors.

The only power which the Insolvent Court now has to stay proceedings in execution does not arise till the Insolvent's schedule has been filed, and in the cases where the insolvent is friendly to the execution creditor, the filing of the schedule is invariably delayed for the purpose of giving him an advantage.

Further, the Code empowers Courts to attach the property of a defendant in cases where there is reason to believe that he is likely to make away with that property in fraud of the plaintiff. Under the language of the old Civil Procedure Code it was held that property so attached before judgment vested in the Official Assignee of the defendant, and was assets of his estate giving no preferential claim to the attaching creditor, but it has been successfully contended that the effect of the new Code, section 490, is to give to a creditor attaching before judgment priority over the assignee, even though the adjudication were before judgment obtained by the attaching creditor.

The third section of the Bill is intended to provide for the rateable distribution of the insolvent's property amongst his creditors in cases where the modern English law would so distribute it, instead of allowing one creditor to sweep away the whole or a large portion of the assets.

From a very early period the Bankruptcy law of England provided that persons who, by leaving goods in the hands of traders, enabled them to maintain a false appearance of wealth and thus obtain credit, could not claim such goods from the assignee of the bankrupt, and this provision was introduced into this country by the Insolvent Act. There was nothing, however, to give similar rights to execution-creditors, and therefore this anomaly occurred that, where an attachment was laid on goods in the hands of a person who became insolvent, the custody of the law took the goods out of the order and disposition of the bankrupt, so that a subsequent adjudication did not vest the goods in the assignee, but the attaching creditor was not able to treat the ostensible ownership of the judgment-debtor as giving him any claims. It is not easy to see any sound basis for this distinction, the injurious influence of which is, to some extent, obviated in England by the Bills of Sale Act. The fourth section is intended to avoid this anomaly.

Down to a very recent period it was generally supposed that where moveable property was in the possession and ostensible ownership of a partnership a member of which became bankrupt, the provisions of the Bankrupt Law vested such property in the assignee; it was however decided in *ex parte* Dorman L. R. 8 Ch., App. 51, that such was not the effect of the language

of the Acts upon the ground that it could not be the intention of the Statute to give such rights where the other partners were solvent. The Appellate Court however was of opinion that where the firm is in fact insolvent, the case comes within the mischief against which the order and disposition clause is intended to provide, and in this country it has been decided that the existence of an absent partner does not prevent the provisions of that clause attaching. The fifth section is intended to apply the order and disposition-clause to such cases as fall within the mischief which it is intended to prevent.

Much of the trade of the Presidency-towns is carried on by Gumáshtas on behalf of persons residing in remote parts of the Mufassal, and in many cases, if such traders became insolvent, they might be able, by taking advantage of the insolvency proceedings in the Procedure Code,* to embarrass their general trade-creditors who would have much difficulty in supervising the proceedings in a Mufassal Court. The sixth section is intended to enable the creditors of such persons to have the liquidation of their affairs transferred to a Court with machinery better organised for the administration of bankrupt estates in cases where such a course is deemed by the Court to be expedient.

Sums in the aggregate considerable, though, in general, individually small, are from time to time left unclaimed in the hands of the official assignee, and so long ago as 1841 an Act was passed empowering the official assignee after the lapse of six years to distribute the amount of such unclaimed dividends rateably among the creditors who had proved the claims.

The language of this Act, however, was so singularly framed that it seems impossible that there ever could be a distribution made of such unclaimed dividends. The seventh section is intended to correct this.

* It was found some years ago in England that similar powers given to Scotch Courts were applied to the detriment of English creditors, and a modification of the Scotch Law was enacted to prevent its application to persons whose creditors were principally in another part of the United Kingdom, see 23 & 24 Vic., c. 33.

The 23rd January, 1881.

J. PITT KENNEDY.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 12, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st January, 1881 :—

We, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have had the report of the Indian Law Commissioners, 1879, duly communicated to us. We have carefully considered so much of it as relates to the present Bill, as well as the papers noted in the margin, and, in compliance with the wish of the Secretary of State for India, as expressed in his despatch (Legislative), No. 37, dated 7th October, 1880, we have the honour to submit this our fourth report.

From Secretary, Chamber of Commerce, Madras, dated 31st August, 1878, and enclosure [Papers No. 56].
Acting Chief Secretary to Government, Madras, No. 299, dated 14th February, 1879, and enclosures [Papers No. 58].
" Ditto, ditto, ditto, No. 1343, dated 7th June, 1879, and enclosures [Papers No. 59].
" J. Crawfurd, Esq., Registrar, High Court, Calcutta, No. 1123, dated 27th June, 1879 [Paper No. 60].
Note by Sir Charles Turner, Chief Justice, Madras, dated 22nd January, 1880 [Paper No. 61].
From Seth Lachman Dás, Muttra, dated 1st January, 1881 [Paper No. 62].

2. We agree with the Commissioners that uniformity of practice is particularly desirable in matters relating to negotiable paper, and, to facilitate the assimilation of the practice of shroffs to that of European merchants, we have declared (section 1) that local usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by the proposed Act.

3. We have inserted explanations calculated to prevent doubts as to when a promise or order to pay is "conditional," when the sum payable is "certain," and when the person to whom the direction is given or payment is to be made is "a certain person," within the meaning of sections 4 and 5.

4. We have re-drawn section 20 as to inchoate stamped instruments, so as to make it express more accurately what we conceive to be the law on this subject.

5. We have also re-drawn sections 47 and 48 (as follows) :—

"43. A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Negotiable instrument made, &c., without consideration.

"*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed, can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

"*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full, shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed."

6. We have prefixed to the sections relating to negotiation clauses (section 46) relating to delivery generally, and to the effect recommended by the Commissioners.

7. We think the section (67, now 63) relating to the drawee's time for deliberation should provide that the holder of a bill "must, if so required by the drawee," allow him twenty-four hours (exclusive of public holidays) to consider whether he will accept, and we have amended this section accordingly.

8. We have made (section 76) presentment for payment unnecessary as against any party sought to be charged, if he has engaged to pay notwithstanding non-presentment.

9. We have in section 90 (now 86) substituted "qualified" for "conditional" and added a paragraph shewing when an acceptance is qualified.

10. We have provided (section 90) for the extinguishment of rights of action on a negotiated bill held, at or after maturity, by the acceptor in his own right.

11. We agree with Sir C. Turner that section 108 of the Bill in its fourth form—as to reasonable time for presentment—should be omitted. It seems inconsistent with section 107 (now 105), and declares a rule which is not only stricter than the existing law, but would, in our opinion, be highly inconvenient.

12. We have inserted a statement of the procedure in the case of an acceptance *supra protest*, and to section 112 (now 109) we have prefixed a clause shewing how acceptance for honour must be made.

13. We have declared (section 116) that a drawee in case of need may accept and pay the bill without previous protest.

14. We have made it appear that inland (as well as foreign) bills may be drawn in sets, and altered Chapter XIV (now XV) accordingly. We have made the exception to section 126 (now 132) run thus:—

"*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he *and the subsequent indorser of each part* are liable on such part as if it were a separate bill."

15. We have amended the second clause of section 125 (now 130, 131) (as to the non-liability of a banker who has received payment for a customer of a crossed cheque) in accordance with *Matthiessen* v. *London and County Banking Company*, 48 L. J. C. P. 529.

16. We have made most of the changes in arrangement and wording advised by the Commissioners, and recommend that the Bill as now revised be passed. It has now been more than thirteen years before the Council of the Governor General; it has been redrawn, copiously criticised and repeatedly revised; and without the experience derived from its actual operation, it is not likely to be further improved. But it should be published in the Gazettes, and, according to the orders of the Secretary of State, it must, before being passed, be sent to the Local Governments, translated into the vernaculars and submitted to him with this report.

WHITLEY STOKES.
B. W. COLVIN.
J. PITT KENNEDY.
G. C. PAUL.

The 20th January, 1881.

No. V.

THE NEGOTIABLE INSTRUMENTS BILL, 1881.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

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SCHEDULE.

No. V.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble.

WHEREAS it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Negotiable Instruments Act, 1881:" Bill II, s. 1: Bill III, s. 2.

It extends to the whole of British India; but

Local extent.

Saving of usages relating to hundís, &c.

nothing herein contained affects the Indian Paper Currency Act, 1871, section twenty-one, or affects any local usage relating to any instrument in an oriental language: Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act; and it shall come into force

Commencement.

on the first day of January, 1882.

Repeal of enactments.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. Bill II, s. 2: Bill III, s. 2.

Interpretation-clause.

3. In this Act— Bill II, s. 3: Bill III, s. 2: 39 & 40 Vic., c. 81, s. 3.

"Banker."

"Banker" includes also persons or a corporation or company acting as bankers; and

"Notary Public."

"Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note.

4. A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument. Bill II, s. 4: Bill III, s. 4. Byles on Bills, (12th edition), pp. 5, 94. 3 & 4 Anne, c. 9 (Byles 481). Byles 5, 102: Byles 10: Byles 93: Byles 6.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received."

(c) "Mr. B, I O U Rs. 1,000."

(d) "I promise to pay B Rs. 500 and all other sums which shall be due to him."

(e) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."

(f) "I promise to pay B Rs. 500 seven days after my marriage with C."

(g) "I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."

(h) "I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

Bill II, s. 5: Bill III, s. 5: Byles 1, 75: II, 94, 97: Byles 93, 94, 96: Byles 75, 81.

5. A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

"Bill of exchange."

A promise or order to pay is not "conditional," within the meaning of this section and section four, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this section and section four, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section four, although he is mis-named or designated by description only.

II. s. 6: II III, s. 5: les 13.

6. A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Cheque."

ft, s. 6: II, s. 7: III, s. 7.

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawer." "Drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Drawee in case of need."

ft, ss. 6, s. 196: VI of , s. 2: V of 1866, : 1 Vic.,

After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor."

When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Acceptor for honour."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Payee."

Draft, s. 6: Bill II, s. 8: Bill III, s. 8: Byles 2.

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

"Holder."

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

Draft, s. 12: Bill II, s. 9: Bill III, s. 9: 1 Parsons 255: Byles 164.

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer,

"Holder in due course."

or the payee or indorsee thereof, if payable to, or to the order of, a payee,

before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

Draft, ss. 86, 115: Bill II, s. 10: Bill III, s. 10: Byles on Bills (12th edition), 221: 39 & 40 Vic., c. 81, s. 11.

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

"Payment in due course."

Bill II, s. 11: Bill III, s. 11: Act V of 1866, s. 12.

11. A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

Inland instrument.

Bill II, s. 12: Bill III, s. 12.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

Foreign instrument.

Draft, s. 5: Bill II, s. 13: Bill III, s. 13.

13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof.

"Negotiable instrument."

Draft, s. 7: Bill II, s. 14: Bill III, s. 14.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Negotiation.

Draft, s. 20: Bill II, s. 15: Bill III, s. 15: *Denton* v. *Peters*, L. R. 5 Q. B. 475: *Ex parte Cote* L. R. 9 Ch. App. 27: Byles 165: Byles 150.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

Indorsement.

Bill II, s. 16: Bill III, s. 16.

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

Indorsement "in blank" and "in full."

"Indorsee."